

**A study of the utilisation of the ARIPO Intellectual property system by  
Japanese stakeholders**

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## Abstract

The African regional intellectual Property Organization (ARIPO) has embarked on a drive to re-strategize and align its activities and practices to the development of the IP system on the continent. ARIPO was established to act as a standard bearer for efforts of harmonization and faster pace of development of laws and practices in the field. The office receives very few IP filings compared to other regional offices. IP statistics of the ARIPO office reveal that there has been a persistently low level of participation by nationals of Member States, slow growth in membership of ARIPO system, failure to attract the larger economies like South Africa, Nigeria and a decrease in patent filings of Japanese origin. ARIPO patent filings received in 2014 was of 835 compared to 780 and 697 received in 2015 and 2016 respectively. This is in contrast to global filings which stood at 2,888,800 in 2015. Applications from Japan were 7 in 2010 and rose to a high of 39 in 2013 and a highest of 45 in 2015. The number of applications from Japan decreased significantly in 2016 to 21 from the 45 received in 2015. The study sought to examine the low uptake and utilization of the ARIPO system by Japanese stakeholders. A total of 5 Japanese multinational companies and 4 IP support institutions were interviewed. The study found that the major challenges affecting the utilization of the ARIPO system by Japanese stakeholders are as follows:

- Inadequate detailed and practical information (examination guidelines at ARIPO and at Member states)
- Enforcement system and doubts regarding enforceability
- Non-domestication of regional and international treaties
- Non-harmonization of systems in the ARIPO Member states
- The uncertainties regarding the ARIPO trademark systems
- Lack of training on the African IP systems
- Low utilization and awareness of IP in ARIPO Member states
- Economic issues to a smaller extent

The companies expressed interest in utilizing the system but required clarification as they have business on the continent. Takeda, Yamaha and JAPEX indicated interest in collaborating in innovation and technology transfer related activities but required assistance to do so. The recommendations on the improvement of the ARIPO system these stakeholders made are as follows:

- ARIPO to engage in continuous high level engagement utilizing different platforms such as TICAD and WIPO
- Undertake coordinated promotional activities for the utilization of the IP system, e.g. the Japanese used the IP basic act.
- ARIPO should identify key industrial development sectors and align the IP system to it and help popularize IP by demonstrating the role IP has to play in success of the industries, e.g. some office have identified green technologies and offer incentives or fast tracked process, the patent prosecution highway is a good example.
- ARIPO can design strategic processes for promotion to its Member states and this could also assist in building the influence of ARIPO.

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## 1. Introduction

Regional integration and cooperation has been on the agenda of African countries for decades. This has led to formation of various regional blocks that are meant to implement strategies and policies developed through consensus by Member states. Despite this seemingly collaborative strategy, policies and legislation at a regional level, implementation and impact has fallen short of expectations, resulting in frustrations amongst various stakeholders. It becomes an important endeavor to understand the underlying factors that affect the success of regional institutions and organizations in Africa, more specifically in the field of intellectual property. This research focuses on the African regional intellectual Property Organization (ARIPO) and the factors that affect its utilization which are reflective of the level of implementation of regional legislation.

ARIPO was founded in 1976 with the objective to pool resources together for the development of Intellectual Property (IP) in the region. ARIPO was established to solve challenges being faced by African countries in the development of the industrial property system including skills, human and financial resources. The establishment of a regional office would facilitate training of personnel and lead to the creation of a regional central center that ensured a self-tailored system for development of IP. Most importantly a central facility would also act as a standard bearer for efforts of harmonization and faster pace of development of laws and practices in the field.

The establishment of ARIPO was seen as a welcome development in the region with the hope that growth in the field of Industrial property would be seen. Unfortunately the IP statistics of the ARIPO office reveal that there has been a persistently low level of participation by nationals of Member States and a decline generally in regional filings from outside the ARIPO Member states. Secondly there has been a slow growth in membership of ARIPO system as reflected by the joining of countries in the system especially the larger economic groups such as South Africa, Nigeria and Egypt. Finally, there is a continued decline in foreign IP filings especially with regards to patents and a marked decrease in patent filings of Japanese origin.

The low numbers of applications by nationals in ARIPO Member states points to a serious challenge in terms of the IP system in the region. There have been efforts in developing the legal framework for industrial property in the region, but this has not been coupled with an increase in applications or utilization of the system by both local and foreign applicants. Local applications from ARIPO Member States account for only about 5% of total filings received at the Office.

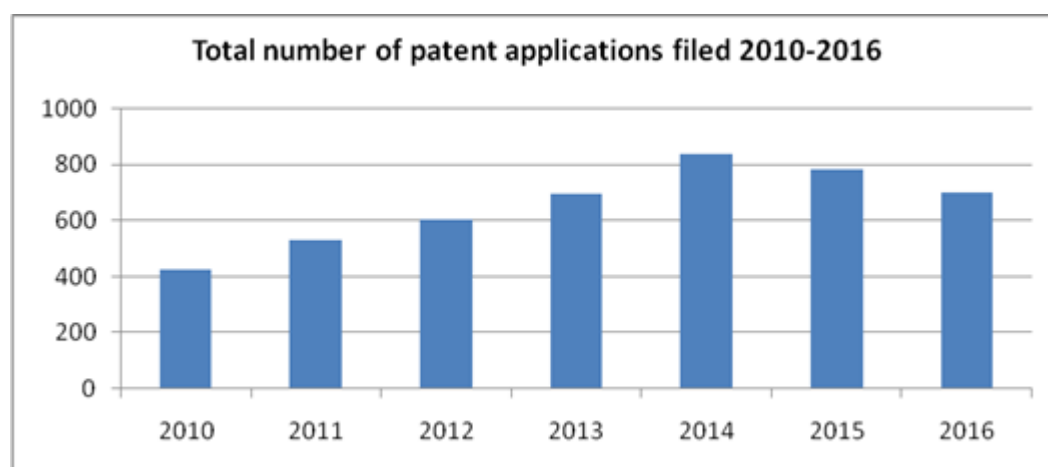


Figure 1. Total number of patent applications received by ARIPO office 1997- 31 December 2016. Data based on ARIPO Online Service [ARIPO, 2017-1].

According to figure 1, the highest number of applications at ARIPO was received in 2014 with a total of 835 compared to 780 and 697 received in 2015 and 2016 respectively. This is in contrast to the global scale where there has been a continuous growth in patent filings for six years from 2009 to 2015 [WIPO, Cornell University, INSEAD, 2016]. The total number of applications received to date is 8756 since the establishment of the Protocol until 31 December 2016. Of these only 163 are local [ARIPO, 2017-1].

The share of applications being received by the ARIPO are negligible as compared the global trends, for example in 2015 the total number of global patent filings was 2,888,800 yet ARIPO only received 780 applications which was a fall from 835 filings from the previous year. From the nearly 2,9 million patents filed in 2015, Asia received the highest total number of filings with China receiving 38.1%, Japan 11.0 % and the Republic of Korea 7.4% [WIPO, Cornell University, INSEAD, 2016].

In 2015, Japan Patent Office (JPO) received 258,839 patent applications, a decrease from 290,081 in 2010 (local applicants) and 59,882 a decrease from 54,517 (foreign applicants) [WIPO, Cornell University, INSEAD, 2016]. Although there were slight decreases, the numbers are significantly high compared to ARIPO applications. The uptake of the ARIPO system by Japanese applicants is on a decrease and still relatively low as shown in figure 2.

The number of applications from applicants from Japan was 7 in 2010 and rose to a high of 39 in 2013 and a highest of 45 in 2015. The number of applications from Japan decreased significantly in 2016 to 21 from the 45 received in 2015. In 2015 there were a total of 44,053 PCT applications originating from Japan, an increase from 43,771 in 2014. The question becomes “What is the cause for this decline at ARIPO?”

Japanese exports to Africa have risen from 5.0 billion USD in 2000 to 7.8 billion USD in 2015. The number of Japanese companies operating in Africa rose from 336 in 2005 to 687 in 2015; further FDI stock in Africa has risen 22 fold in 18 years from 0.5 billion in 1996 to 11.4 billion in 2014. Despite this growth and increased interest in Africa by Japanese companies and industries in Africa, there has been a significant drop in the number of Industrial property filings, especially patent filings with ARIPO and its Member States.

With this background it is critical to assess the perspectives on and challenges being faced by Japanese stakeholders in the utilization of the ARIPO regional system and other African

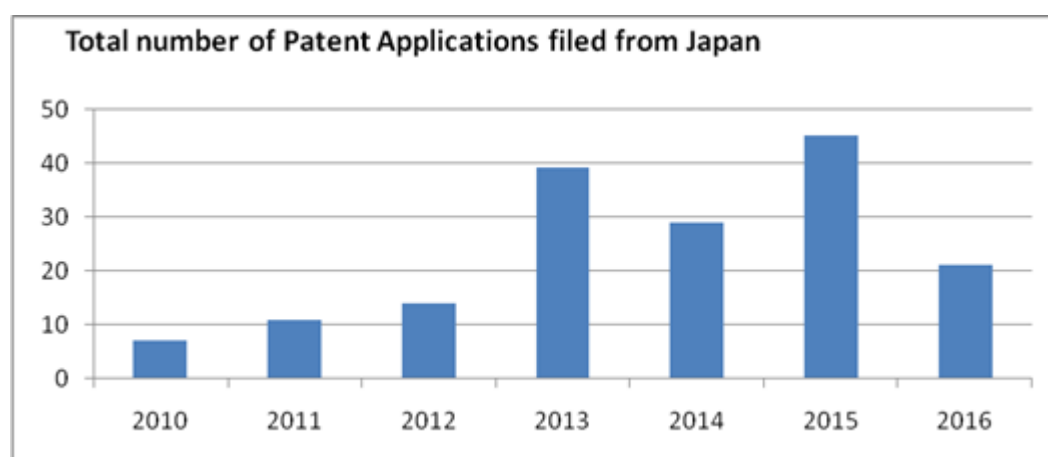


Figure 2. Total number of Patent applications filed at ARIPO from Japan. Data based on ARIPO Online Service [ARIPO, 2017-1]

national systems vis a vis other routes (e.g. local as well as PCT) and come up with proposals relating to the improvement of the ARIPO Protocols, systems and office practices in the granting of IP titles. It is further crucial to assess the development of the IP system in Japan which has led to the increased utilization by local applicants both nationally and internationally and propose recommendations and other activities to support the uptake of the system by local users.

## 2. Basic Information and Previous Studies

### 2.1 Introduction

Regional organizations in Africa are affected by various socioeconomic and political factors. ARIPO is not immune to these factors, hence they should be taken into consideration when studying the impact and footprint of the organization on the African continent, the member states themselves and the users of the IP system which in this case are the Japanese stakeholders/companies.

A study on the politics of regional organizations in Africa [Vanheukelom, 2016], which focused on the policy agendas, drivers and blockers of progress with an aim to increase understanding of what shapes incentives and therefore what is technically and politically feasible in a particular policy area and regional context found the following factors amongst others as influential in African regional organizations;

- 1 Structural and foundational factors continue to shape the environment in which African regional organizations set and implement their agendas, geophysical location and colonial influences, e.g. Francophone vs Anglophone, and a resultant variety of different administrative, bureaucratic and linguistic traditions.
- 2 While regional organizations adopt the institutional forms to foster regional integration, these institutions often do not serve their stated functions: there are inflated policy agendas with limited mechanisms to encourage implementation and planned protocols none of which are functioning as they should on paper, with little cost or sanction for non-implementation.
3. Member states face incentives to signal their support for regional policies and programs even when implementation is not a domestic priority. There are numerous incentives, logics, and reasons for national leaders to signal their support for regional agendas without necessarily acting on it. An example is the issue of gender which has regional support at the African Union (AU) level but on the ground there is very little action that is put into practice despite the presence of donor support.
4. Implementation of regional initiatives takes place when in line with key 'national interests' as defined by the ruling elites: e.g. some countries may be more influential than others and use the regional blocks to push their agendas ahead of those of the other members. Further issues such as peace and security may take priority over other issues.
5. Individual personalities and leadership within regional organizations tend to shape and can be decisive for the implementation of regional agendas; Technical staff or bureaucratic leaders can be instrumental in strengthening the functions of regional organizations.
6. The interests and incentives associated with regional cooperation on different sector or policy areas (security, infrastructure, energy, gender etc.) differ markedly according to the nature and characteristics of the sector, affecting implementation in these areas
7. The quantity and quality of donor support to regional organizations present opportunities but also challenges in terms of reducing the implementation gap; poorly managed and targeted aid is partly to blame for incentivizing empty signaling of reforms by regional organizations, agenda inflation, reduced ownership and missed opportunities to strengthen institutional functions that are pivotal for the governance of regional organizations.



Although these findings are general in nature, they do affect ARIPO and its impact on the continent. Internal and external drivers are some of the critical steps through which the success and failures of regional organizations are determined. In this case, these factors play a role in terms of incentivizing Member states of ARIPO to implement and prioritize issues relating to Intellectual Property including building the local support and utilization. Further the structure of programs that are externally funded should be evaluated to assess whether they fit into the realities and gaps in the Member states, if not how should they improved and what quick wins should be implemented to ensure success?

ARIPO has been in existence for 40 years as a regional organization; the key question to ask is what has been the level of influence in Member states to fully implement the regional commitments at national level including the domestication and harmonization of the treaties that the countries themselves have agreed on and developed. This will be reflected by the network of the interaction between the regional organization and the national legislation including administration both at ARIPO and in member states.

## 2.2. Intellectual Property Protection in African Countries

Administration of IP rights has been associated with numerous challenges as governments grapple to find balance with national development challenges, famine, natural disasters, and unemployment. Regional organizations have come in to assist governments in African Countries with skills and capacity as well as legislative reform. It then becomes important to assess status of IP administration in African countries and the impact of the regional IP organizations.

A study of 44 Patent offices in Africa found that most of the national patent offices were ill-equipped to discharge their two main functions: examining patent applications and collating patent information, so that it can be made publicly available for public and inventor follow-on use. IP offices lack capacity to examine substantively applications and record keeping, as well as access to the records which was also poor. Low levels of domestication of regional and international IP treaties and related legislations was found to be a key challenge. Harmonization of laws across border standardizes the means of administration of IP rights in line with the ARIPO Protocols. Further the Member states have to domesticate these treaties [Wiener, 1999]. These two principles of harmonization and domestication are the pillars upon which any IP system at the regional and international can be considered to be truly complaint and functional according to the standards set at the regional or international level as the case may be. The factors that affect harmonization and domestication are linked to the challenges with regional organizations as found by J. Vanheukelom [Vanheukelom, 2016].

To raise the efficiency of the global economy as a whole, intellectual property protection rules should be established to create a highly transparent, predictable and stable business environment conducive for smooth trade, foreign investment and technology transfer.

Challenges in the utilization of any national, regional or international IP system will lie in the level of implementation and adherence to the standards set in them by the Member states or signatories. This brings about the confidence by the applicants with regards to IP that their rights will be enforceable. As discussed earlier, IP rights are individual rights and their true measure is on their enforceability, so hence any applicant will consider this when seeking to protect their IP title.

The Madrid Protocol and Madrid Agreement also experience the same challenges of domestication. D. Dinis and I. Monteiro Alves state that, even though the majority of the African countries are contracting parties of the Madrid System, the effectiveness and efficiency in some of the jurisdictions are not clear, either because the IP offices have not adopted the necessary procedures to implement the system, or the Governments have not changed the

national legislations that allow the possibility to file international applications, or simply because of the unawareness from the IP offices regarding the matter. The authors argue on poor administration, e.g. failing to comply with time limits in the Madrid System leading to automatic registration and that this may be challenged at a later stage [Dinis Alves, 2017].

The authors conclude that Botswana, Egypt, Kenya, Madagascar, Mozambique and Sao Tome & Principe have fully domesticated the Madrid System and there is certainty that the registration proceeding shall be effective. On the other hand, they find that the system is not fully functional in Algeria, Gambia, Ghana, Lesotho, Liberia, Morocco, Namibia, Rwanda, Sudan, Sierra Leone, Swaziland, Tunisia, Zambia and Zimbabwe. The major challenge is from common law countries which require that the international treaty signed should be incorporated into the national law.

### 2.3. Intellectual Property Protection at ARIPO

Criticisms on the ARIPO system which have emerged these criticisms in recent years were based mainly on the lack of domestication or lack of adherence to the regional treaties in the national courts. In literature related to public health and access to medicines, some authors have suggested that by virtue of being member states of ARIPO some countries have lost their ability to include TRIPS flexibilities in the patent system. The authors state that ARIPO does not provide for pre and post grant opposition procedures and therefore the Member states do not also provide for the same [UNDP, HIV/AIDS Practice, Bureau for Development Policy, 2012].

The largest critics of the ARIPO system are some of the agents that utilize the system who are based outside the Member States. In various articles and reports, Spoor & Fischer states that there are discrepancies in registration systems of ARIPO and Member states due to the common law nature of their legal systems [Spoor & Fisher, 2016].

D. Oliver gives an overview of the enforcement of IP in African courts, which give evidence contrary to the perceptions that IP rights are unenforceable in the continent, this includes the decision of the Kenyan tribunal that it has no jurisdiction to invalidate patents granted by ARIPO, The High Court of Uganda judgement in *Anglo Fabrics (Bolton) Ltd and Ahmed Ziwa v African Queen Ltd* where the judge inferred that ARIPO registered trademarks are enforceable in the country despite the non-domestication of the Banjul protocol [Olivier, 2010].

Adams and Adams in their book support the view that the ARIPO trademarks may not be enforceable in the signatories of the Banjul Protocol due to the non-domestication of the Protocol in some of the Member states [Adams and Adams, 2012].

Inventa in one of their latest publications state that some of the disadvantages of protecting a trademark through the ARIPO system include the lack of information or details on the opposition procedures in the national offices and the opposition includes filing of separate opposition processes in each of the Member states. This is in contrast to the Madrid System which allows a central attack on the basic application. The 9 month period of opposition of the ARIPO trademarks is not sufficient to cover the re-publication and thus secondary opposition period of the mark in Member states that allow to provide for this, e.g. São Tomé and Príncipe. The authors also state that only Botswana, Zimbabwe and Liberia have specific provisions regarding the validity of ARIPO trademarks, even though the remaining national IP Offices have taken measures and are currently applying the Protocol and thus conclude that protection somewhat “dubious” in regards to the countries that have not incorporated the Protocol in their national bodies of law [Inventa International, 2017].

Some authors state that there are 3 categories of Patent regimes in the ARIPO member states: the first category is which grants automatically patents that have been granted in South Africa these include Botswana, Swaziland and Lesotho. The second category is that which refer

to the United Kingdom and require that patents be granted there before re-registration in these countries. The third category is that of the independent patent systems, i.e. States that the scope and content of the subject matter of an ARIPO patent is determined by the national law of the designated state, the final determinant of the patentable subject matter, duration of the patent and enforceability and effectiveness of the ARIPO right are determined by the national legislation of the designated country. They conclude thus that the ARIPO patent system loosely regulates the national interests of its member states and the national law should prevail any conflict arise between the law of the Member state and the ARIPO protocol [Kameri-Mbote, 2005].

Some authors have observed that one of the challenges with the ARIPO patent system is that the Member states may decline the patent in accordance with national law e.g. in the area of micro-organisms. Transnational companies, the biggest users of the patent system, are happy to have a world in which, at a moment of their choosing, they can obtain high-value patents at a low cost. To such firms, Africa is at present a highway, with no speed limits, on which applications are rushed to patent offices [Sayre, 2012] [Mgbeoji, 2014].

Adams and Adams question the validity of ARIPO patents in Swaziland, Malawi, Tanzania, Namibia, Rwanda and Sierra Leone [Adams and Adams, 2012]. The Industrial Property Act § 59 of Kenya makes patents granted by ARIPO as effectual and binding in Kenya as any patent that would ordinarily be granted by Kenya Industrial Property Institute (KIPI) [Zuallcoble, 2012]. Although Mauritius is an observer state of ARIPO, the IP Office, which is responsible for the administration of the industrial property law, depends on ARIPO for substantive examination, which takes time because of the observer status of Mauritius [Mengiste, 2017].

In his lecture series, J. Mossinghoff purposes that the pharmaceutical industry is one of the most aggressive in getting international protection, and they use both Organisation Africaine de la Propriété Intellectuelle (OAPI) and ARIPO. Other industries do not particularly use those systems, because enforcement in Africa is spotty, and the markets are still unstable [Mossinghoff, 1999].

Identified challenges associated with ARIPO and OAPI on the overall governance of IP on the continent include the following:

- i. policy and institutional incoherence
- ii. focus on the grant of patent rights to the exclusion of giving significant guidance on the exercise of those rights
- iii. harmonization efforts sometimes reduce the policy space available to member states; and provision of “an IP cooperation framework for negotiating bilateral trade and investment agreements”

These lead to the further degradation of policy space when their member states sign such agreements.

The authors further suggest that Patent law and policy reforms in Africa should focus on institutional capacity-building. Extensive research, including a survey of patent offices in 44 African countries, reveal that African states have become a “dumping grounds” for patents, with little or no examination of applications or public access to invention disclosures or other documents.

Despite these arguments by authors and legal practitioners, the state of trademarks under the Banjul protocol is to be considered as valid and enforceable. As discussed above, Zimbabwe, Liberia and So Tome have domesticated the Banjul protocol. The other member states such as Namibia, Mozambique, Rwanda Sao tome and Sudan are monist and do not require the enactment of the regional treaties. Further, case law has shown that in other ARIPO

countries such as Uganda although the country has not domesticated the Banjul Protocol, the Protocol is enforceable.

Some notable case law with regards to the enforceability of IP titles in ARIPO Member states is summarized in Table 1.

In addition to the cited examples above, there is also evidence to clearly indicate that ARIPO member states have taken measures to try and deal with counterfeiting through partnerships with institutions such as Interpol. Most of the ARIPO Member States have updated their legislation in line with the TRIPS agreement. Some key features to note though with regards to the minimum standards as set out in the TRIPS agreement have some slight differences in the Member states. For example, duration of protection of patents is 20 years under the Harare Protocol and Tanzania and the Gambia have a term of protection of 15 years. With regards to trademarks the Harare Protocol sets out 10 years for initial registration and all other member states with the following exceptions provide for the same, i.e. Tanzania and Uganda have an initial registration of 7 years with renewals for 10 years. Zambia has an initial registration of 7 years with renewals for 14 years.

Legislation of ARIPO member States provides for civil, administrative, provisional and criminal measures. Term of imprisonment indicated refers to the maximum established by the law; fines are also provided. Average Criminal sanctions are as follows:

- 5 years for Industrial Property
- 3 years for Copyright
- Maximum imposed: 10 years

16 out of the 18 signatories to the Harare Protocol have domesticated it into their national legislation. 5 out of the 10 Member States of the Banjul Protocol have domesticated it. This should also include the monist countries like Sudan. 12 out of 19 member states of ARIPO have domesticated the TRIPS agreement. In contrast only 6 countries have domesticated the Madrid Protocol.

### The Changing landscape of ARIPO

The Director General of ARIPO introduced the ARIPO working group forum which is meant to obtain key views and opinions on the ARIPO system from all interested parties and stakeholders. The working group since its inception has resulted in the amendment of the ARIPO instruments to be reflective of international developments and interests of all parties. These amendments and developments are annexed to this document. The 10th amendment of the Harare protocol in 2016 as quoted by J. Rodrigues the 10th amendment, which came into force in 2017, introduced some much needed provisions. The aforementioned amendments and new rules allow the ARIPO's patent and utility model application system to be tantamount to other national and multinational's systems such as the European patent system. Further encouraging inventors and applicants to develop, invest and explore their inventions in Africa, by better safeguarding their rights. [Rodrigues, 2017]

ARIPO has also taken into consideration the concerns of non-harmonization of IP on the continent and efforts have begun to try and harmonize the ARIPO system with the OAPI system which would see the 19 Member states of ARIPO and the 17 Member state of OAPI coming together and harmonizing their procedures and key provisions including the possibility of filing for applications in all 36 countries in one procedure.

Table 1. Overview of IP Case law in ARIPO Member states

Country and Court	Case Law
Uganda High Court	Anglo Fabrics (Bolton) Ltd and Ahmed Zziwa v African Queen Ltd
Kenya IP Tribunal	<ul style="list-style-type: none"> <li>• Adidas AG and Anor VS Pepkor Retail Ltd (trademark) [2002]</li> <li>• Chemserve Cleaning Services Ltd v Sanitam Services Ltd (patent) [2013]</li> <li>• David Engineering Ltd v Steel Structures Ltd (Industrial design) [2011]</li> <li>• Die Bergkelder Beperk versus Vredendal Koöp WY &amp; 2 others (trademark) [2006]</li> <li>• Dr. Samson Gwer &amp; 5 others v Kenya Medical Research Institute (KEMRI) &amp; 3others (copyright) [2014]</li> <li>• Duplex Engineers (1997) Limited v Jaswinder Singh Sehmi (patents) [2008]</li> <li>• Friendship container manufacturers Ltd Vs Yash Plastomet Pvt Ltd (Industrial Design) [2007]</li> <li>• General Plastics Limited v SafePak Limited (industrial design) [2013]</li> <li>• George Ragui Karanja v Moras group ltd, Naivas supermarket &amp; Safaricom ltd (industrial design) [2013]</li> <li>• Glenamrk Pharmaceuticals v Les Laboratories (patent) [2011]</li> <li>• London Distillers v Ponu Monu Suppliers (industrial design) [2011]</li> <li>• Steel Structures Limited versus David Engineering limited (industrial design) [2007]</li> <li>• Ukwala Supermarkets &amp; 2 others Versus Paul Mburu Wainaina &amp; Anor (patent) [2005]</li> </ul>
Namibia Supreme Court	<ul style="list-style-type: none"> <li>• Elisenheim Property Development Company (Pty) Ltd v Guest Farm Elisenheim &amp; Others Trademark) [2013]</li> <li>• Guido-Dirk Gonschorek &amp; Others v Arndt Asmus (Trademark) [2008]</li> <li>• Mega Power Centre CC t/a Talisman Plant and Tool Hire v Talisman Franchise Operations (PTY) Ltd (Trademarks) [2013]</li> </ul>
Namibia High Court	<ul style="list-style-type: none"> <li>• Sparletta (Pty) Ltd V Namibia Breweries Ltd (Trademarks) [1991]</li> <li>• The Prosecutor General v Xiping (Trademarks) [2013]</li> </ul>
Mozambique Administrative Court	<ul style="list-style-type: none"> <li>• British American Tobacco, Inc. v IP Office (trademark) [2002]</li> <li>• P. T. Permona v IP Office (trademark) [2010]</li> <li>• FESCOL – Fabrica de Especiarias Confiança, Lda v IP Office (industrial design) [2010]</li> <li>• British American Tobacco, Inc. v IP Office (trademark) [2010]</li> <li>• Irish Distillers Ltd v IP Office (trademark) [2011]</li> <li>• Unilever NV v IP Office (trademark) [2011]</li> <li>• Grand Africa, Lda v IP Office (trademark) [2012]</li> <li>• Unilever NV v IP Office (trademark) [2012]</li> <li>• Skechers, USA, INC. v IP Office (trademark) [2013]</li> <li>• SSC Sociedade Central de Cervejas e Bebidas, SA [2014]</li> <li>• NV Sumatra Tobacco Trading Company (trademark) [2014]</li> </ul>

According to OAPI's Director of Legal Affairs and International Cooperation and Emerging Issues, "We will do a comparative study of the legislation governing the various objects of intellectual property to identify the similarities and differences. This will lead us to make proposals of modification of the divergent substantive provisions in order to have the same criteria of validity of intellectual property rights." We also examine procedures for the issuance of titles. We note the similarities and differences. This will allow each system to consider changes to have equivalent procedures in the two offices. When the laws of both systems and procedures are equivalent, it will be proposed to combine the two systems so as to facilitate access to industrial property titles in the two systems over the same procedures." [Muheebwa, 2017]

This will also represent a dawn of a new era in the IP system of the region, as a more common and united front with regards to IP matters will be formed including at international level, thus making the African voice more united. The two offices signed a cooperation agreement that will provide the framework for harmonization that is contained in the new cooperation agreement and the work plan for the implementation of the agreement [ARIPO, 2017-2]. .

The contrasting views and opinions on the ARIPO system and the continuous efforts by the organization to improve its system require further analyses. This is especially so with the users of the system from outside the continent who rely heavily on the IP system to ensure that their businesses are protected and they have a competitive advantage over their competitors. There no studies that survey the views and experiences of users on their interactions with the ARIPO system itself. Further most views are expressed by agents who by and large have an interest in the type of filing mechanism that will bring the most income. This is not to say the system lacks its weaknesses but it is important to try and find a balance of views so that there can be well informed decision and policy making for the organization.

This study aims to establish the views and experiences of Japanese stakeholders in their utilization of the ARIPO system.

#### 2.4. Japanese International Strategy and Intellectual Property

There has been a growing interest in Africa from Japanese companies, but as indicated earlier, they have not utilized the ARIPO system despite the increased investment and presence on the continent. In a study of any intellectual property system, it is critical to understand the motivation behind the protection of IP assets in the first place. Utilization of intellectual property systems by applicants is affected by several factors which are disclosed in previous studies on IP appropriation strategies of different companies. It is key to understand how the Japanese companies internationalize their businesses and their appropriation strategies of IP rights.

With regards to multinationals and their internationalization strategies, S. Friesike finds that factors that influence the protection of IP internationally by these firms can be classified into exogenous and endogenous factors. Endogenous factors are those that are within the company itself and include financial resources, experience with litigation, collaborations and market strategy. Exogenous factors include technology risk or imitation, markets competitive structure and the technological level. These factors then form the basis for explaining the IP related decision making [Friesike, 2011].

M. Holgersson and O. Granstrand conducted a study on patenting motives, technology strategies and open innovation. They found that the most important motive to patent is to protect freedom to operate as much as it is important to protect the product/technology itself. Further they found that there is an increasing tendency for open innovation which leads to a stronger motive to patent as it gives a stronger bargaining power in open innovation and

collaborative activities [Holgersson Granstrand, 2017]. This is similar to the findings of the studies by Chesbrough, Leiponen & Byma indicating that firms that are more likely to collaborate are more likely to protect their IP [Chesbrough, 2003] [Leiponenac Byma, 2009].

There is abundant literature on the internationalization of multinationals and this includes a study by A. Nandkumar and K. Srikanth on how IPR at the host location influences the internal division of innovative labor in multinational enterprises finds that as a stronger IP rights reduces the threat of IP expropriation, on average, a stronger IP rights at the host location increases the participation of inventors from that country [Nandkumar Srikanth, 2014]. Moreover, a significant amount of R&D conducted at the host location is targeted at the home market. Several factors influence the presence and IP protection of a multinational in a host location, these include the presence of direct competitors at a location, the richness of local knowledge, geographic and cultural distance, influence how integrated a subsidiary is in a multinationals knowledge network [Alcácer Zhao, 2012], [Frost, Birkinshaw, Ensign, 2002], [Hansen Løvås, 2004], [Almeida Phene, 2004], [Nandkumar Srikanth, 2014]. The multinationals locate their subsidiaries in areas where there is a strong IP rights regime and more so their R&D centers. L. Branstetter, R. Fisman and C. F. Foley show that multinationals file more patents in the host country after the IP rights is strengthened [Branstetter, Fisman, Foley, 2005].

These and other studies provide important information on protection strategies of firms in general but none of these studies focused on strategies by Japanese companies and neither did they focus on appropriation strategies in Africa and more specifically in the ARIPO region.

## 2.5 Internationalization Strategies of Japanese Multinationals and Intellectual property protection in Asia

Japanese multinationals have established subsidiaries in foreign countries and it is key to analyze how these strategies fare together with the IP strategies in these countries.

In the report on geographic diversification of Australian, Asian and European multinational enterprises (MNEs), L. Livraghi concludes that Japanese MNEs are the most internationalized when compared to Italian, German, Australian and Chinese MNEs, with the highest number of subsidiaries in 2013 and the highest percentage growth over the period 2007-2013 [Livraghi, 2015]. Further cost reduction and access to new and expanding markets are the key factors determining the location of newly established foreign subsidiaries and that most existing foreign subsidiaries are still located in Europe, but Asian subsidiaries are growing at a very rapid pace. The report points out that Japanese MNEs started to internationalize their operations in the 1980s. The Japanese government explicitly promoted Foreign Direct Investment (FDI) while strongly discouraging inward investment by foreign firms. The report further claims that substantial appreciation of the Yen in the aftermath of the Plaza Accord in 1985 also facilitated the acquisition of overseas assets by Japanese MNEs and expansion of operations abroad because of the serious energy crisis and increased risk perception caused by the Fukushima accident, as well as substantial Yen appreciation after the global financial crisis [Kang Piao, 2015].

L. Livraghi outlines some fundamental principles of geographic diversification patterns and evolution over time for foreign investment. These include resource-seeking investment is aimed at acquiring strategically important resources at a lower cost than in the home country. Typical examples of strategic resources are primary products and raw materials (e.g. mineral fuels, industrial minerals and agricultural products), as well as unskilled or semi-skilled labor. Market-seeking investment is aimed at servicing the host country market or neighboring markets, avoiding tariff and non-tariff barriers often hindering exports. Efficiency-seeking investment is aimed at rationalizing a pre-existing net of foreign subsidiaries in order to exploit

economies of scale and scope, as well as to diversify the risk involved in foreign production activities.

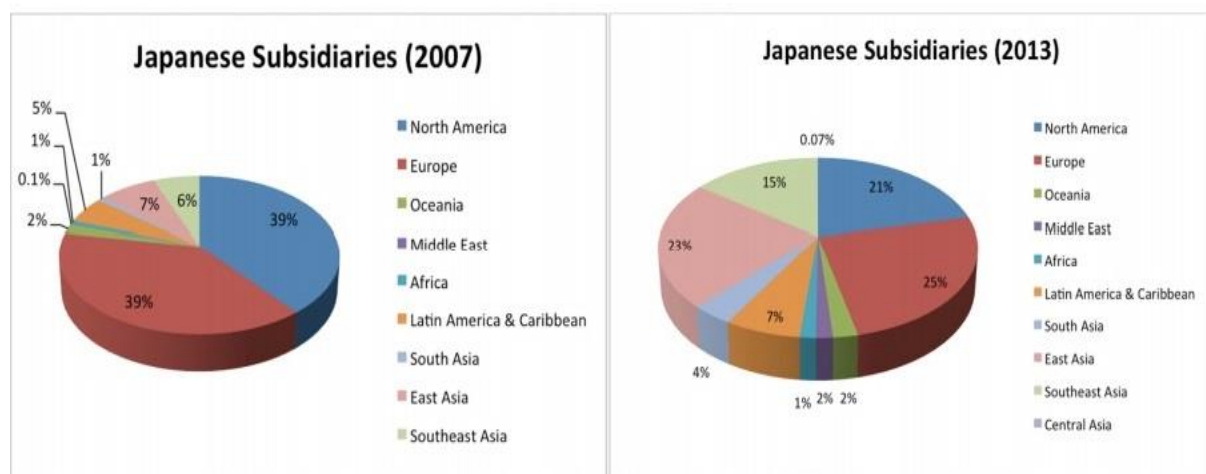
Strategic asset-seeking investment is aimed at augmenting a firm’s global portfolio of physical assets and human competencies in order to gain significant advantages over its international competitors.

For Japan, L. Livraghi finds that in 2007, Japanese MNEs were operative in 9 geographical regions, Europe and North America jointly accounted for 78% of the total number of Japanese subsidiaries. In 2013, the percentage decreased to 46% and no geographic region accounted for more than 25% of the total number of Japanese subsidiaries in that year. This can be seen in the Figure 3.

In total, Japan established 614 new subsidiaries over the period 2007- 2013 and was stabilizing at 1401 subsidiaries in 2013.

One notable feature of Japanese firms’ behavior over the past decades is a trend of increase in their offshore production. Over the last two decades, Japanese firms have expanded abroad to exploit labor cost differentials and rising demand in the host countries. The author finds that overseas investment now accounted for about 25 percent of total manufacturing investment in 2014, while domestic production capacity declined by about 4 percent since 2011. In particular, the transportation sector was the leading sector expanding abroad and accounted for more than 60 percent of overseas investment. Further in 2014, exports by Japanese subsidiaries located overseas (to countries excluding Japan) exceeded exports from Japan by more than 40 percent. The growth in the African market rose from 0.1% in 2005 to 1 % in 2013 [Livraghi, 2015].

S. A. Horna, N. Forsansb and A. R. Cros in their study of strategies of Japanese companies in emerging markets with a specific reference to the automobile industry found that based on internationalization strategy, corporate agglomeration; and marketing strategy majority owned joint ventures (JVs) and wholly owned subsidiaries are more frequently associated with more recent investment projects relative to minority JVs and that Japanese firms have substantially extended their marketing repertoire in India [Horn, Forsans, Cros, 2010].



Note: Subsidiaries belong to the two Global Industry Classification Standard categories “Construction & Farm Machinery & Heavy Trucks” (GICS code 20106010) and “Industrial Machinery” (GICS code 20106020).

Source: Osiris.

Figure 3. Geographic distribution of Japanese Subsidiaries [Livraghi, 2015]



## 2.6 IP protection strategies of Japanese Multinational companies

From the above section, it can be seen that Japanese multinationals are internationalizing and relocating their production facilities outside Japan to service the local market and new markets abroad. These are mostly in Asia and mostly in China and India. It is now important to look into how these internationalization strategies are related to the IP protection strategies.

A study using Japanese firm-level data, Belderbos et al. analyzed the decisions of 605 Japanese multinational firms in 42 countries regarding where they invest in R&D facilities research-related investments (R) and development-related (D) investments abroad. The study found that the decision to locate or establish in R&D facility was positively influenced by a host country's strength of patent laws. The authors conclude that the strength of IPR protection to have a positive impact both on development expenditures and research expenditures in a country, while both research and development expenditures are also sensitive to local wage costs. Research expenditures depend positively on technological opportunities in the industry and country, while development expenditures are positively affected by potential local demand for the firm's products [Belderbos, Fukao, Kwon, 2006]. This study is related to a more recent study of firm-level determinants of home country bias in R&D by R. Belderbos, B. Leten and S. Suzuki on multinational firms in Europe, US and Japan, which found that technology leadership was associated with greater home bias if the home country provides relatively strong intellectual property rights protection and firms face potential knowledge dissipation abroad. Thus a strong IP system is a pre-requisite for multinationals to enter into a country [Belderbos, Leten, Suzuki, 2009].

S. Suzuki, R. Beldebors and H. U. Kwon carried out a survey of 498 Japanese multinationals in 24 host countries and found that the likelihood that firms would conduct R&D in host location was increased by the amount of university research and industry-academia collaboration. This affects the location choices of R&D subsidiaries and is an important motivation for locating a subsidiary outside the host location as the companies seek to gain access to specific local knowledge that can be channeled through firms via internal links other factors also include host country experience and the depth of the firms manufacturing presence. Further, MNEs substitute any shortcomings in skills and knowledge in the host country through their own organizational structures especially for the protection of IP rights over the value created in using the knowledge [Suzuki, Belderbos, Kwon, 2017].

These findings are important in assessing how the dynamics are in the IP strategies and internationalization into Africa. If the market size is big enough for the companies, the R&D system and industry-academia linkages and if there are technological and other related opportunities that will incentivize the Japanese multinationals to operate in Africa, they therefore protect their IP. Further, are the IP systems in African countries including ARIPO adequate to provide the needs of the multinational companies?

A summary of empirical economic analyses of the role of Japanese IP system in its economy analyzed the IP strategies of Japan based companies contained several articles. The report by S. Nagaoka et al. on the influence of protecting IP rights on a company's performance found that the number of patents held increases value-added productivity, added value and net sales grow as a result of the acquisition of patents. This study showed that the propensity to patent or protect IP titles by Japanese companies is very high. IP titles are an important factor for business by Japanese firms. This is supported by the statistics presented earlier on the increased number of patent filings by Japanese companies and the increased international filing strategies [Nagaoka et al., 2015]. An article by K. Onishi and Y. Nishimura in the same publication focuses on an analysis of the JPO's Survey of IP-related Activities. The authors

found that it emerged that the number of patents held and the number of patents worked by the company itself have a positive impact on the company’s performance [Nagaoka et al., 2015].

These findings assist that in the understanding of the importance of the IP titles for business by Japanese companies due to their experience in the home market. It is clear that the value of IP and patents by Japanese companies is very high. This implies that the IP system and its characteristics and strengths will be an important determinant of the potential success of that business in the location of a subsidiary or R&D and or production facility.

Y. Iteya and M. Endo in their study of differences in behavior by corporations from US, EU and Japan IP in China find that locally hired employees were managing IP in American and European corporations, which are usually entrusted with important IP-related duties; there are many requirements for employment and the remuneration is high for locally hired employees managing IP in American and European corporations; and relatively few Japanese corporations attribute IP rights to their subsidiaries in China. Although this situation has changed as shall be seen below with Japanese companies increasingly enforcing their rights in China, this historical context is important as the behavior or comparison may somewhat be similar to that of the African Market where European and US companies lead in IP filings and related activities whilst the Japanese companies are still assessing the risk and slowly protecting and entering the market [Iteya Endo, 2006].

This assertion is supported by information on an article by J. Ellis which describes Japanese corporates as having “a reputation as being especially conservative in their approach to IP strategy”. The authors explain that, traditionally, IP rights are viewed as a validation of their owner’s R&D efforts and mostly acquired for defensive purposes. Moreover, many Japanese manufacturers have taken a somewhat skeptical, or even hostile, view of patent monetization. When it comes to this and other more dynamic approaches to value creation, Japanese companies are more often than not far behind the curve compared to their counterparts and competitors in North America and Europe [Ellis, 2015].

According to the 2015 JPO Status Report the number of PCT applications with Japan as a receiving office increased between 2005 to 2013 from 24,290 to 43,075 and faced a slight decline after 2013 [JPO, 2016].

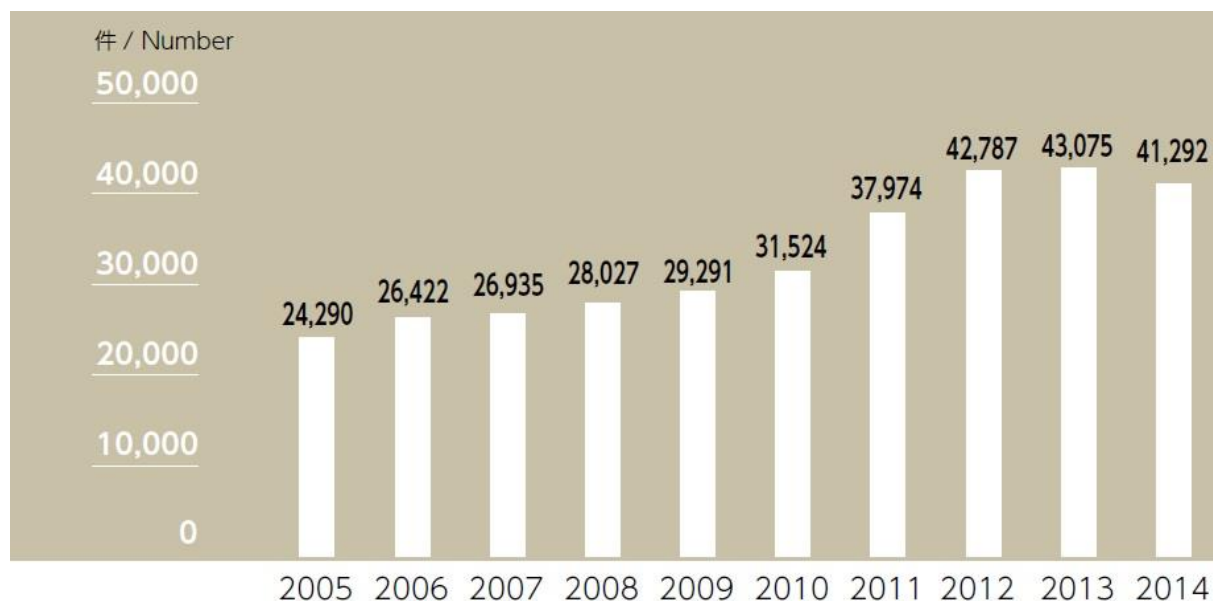


Figure 4. PCT Applications with Japan as a receiving Office [JPO, 2016]

This shows that there is also a very high tendency to protect IP titles outside Japan although the number is far less than the domestic applications. As alluded to earlier, the number of IP filings from Japan to ARIPO are low and negligible as compared to the number of PCT filings. This shows that Japanese firms have international activities located outside Japan and several factors related to those discussed above will lead to the development of strategy on where to locate these entities.

It is also important to consider the motivation for patenting briefly because, although it is beyond the scope of this study, some trends by Japan are quite interesting. Japanese applicants have some of the highest trends in abandoning their patents globally. In an article by M. Beers and M. Lazarova, Japanese companies, renowned for having pursued several decades' worth of quantitative patent filing in both the United States and Europe, dominate at both offices for abandonments. Seven of the top 10 rights holders by number of abandoned US patents and half of the top 10 by number of abandoned European patents come from Japan. The authors conclude that the problem with this approach is the potential impact it has on the market as a whole with implications that the vast majority of patents hold little strategic value; and the chances are that most of those will be abandoned at some point in their lifetime. All of those filings submitted by the companies listed above equate to a whole lot of patent examiners' time being spent on processing a large number of applications that end up being inconsequential to their holders (and most likely to third parties as well, based on the admittedly idealistic assumption that if they had any value they could, and would, be sold). This means that eventually because of the low competitive nature in the developing country markets there is less likelihood that these patents will be filed there unless there is a strategic value to it [Beers Lazarova, 2015].

Although the previous studies provide important information on trends and factors determining protection strategies both locally and abroad for multinationals they do not cover the strategies employed when protecting IP rights in Africa. It can be generalized that the same factors do influence the IP protection in Africa in some instances, for example the strength of the IP regime, the market size, financial and other resources, but it is critical to provide evidence for such and also explore other factors that determine these types of strategies more so for Japanese firms. It is also important to assess how the IP regime at the ARIPO influences decisions by companies when they have decided to protect IP in the region.

## 2.7 Internationalization strategies of Japanese companies into Africa

There has been a growing interest in expanding business into Africa from Japanese companies. Despite to distance of the continent some Japanese companies have found success and are growing in Africa. One of the major drivers for this is being a deliberate government policy.

Japan and African countries adopted the TICAD VI Nairobi declaration on the backdrop of the Yokohama Action Plan 2013-2017 which is set to end of 2017. Some of the outcomes of the Action Plan include an increase in investment in Africa from Japan. Japanese exports to Africa have risen from 5.0 billion USD in 2000 to 7.8 billion USD in 2015. The number of Japanese companies operating in Africa rose from 336 in 2005 to 687 in 2015, further FDI stock in Africa has risen 22 fold in 18 years from 0.5 billion in 1996 to 11.4 billion in 2014. Institutions like JETRO provide services for individual-based surveys on request and publish overviews of completed surveys on its website. These cover 18 major cities, including those in Africa [METI, 2016-1].

According to a special report by Ministry of Economy, Trade and Industry (METI), Africa is "the new hot Investment region". The report outlines how relationships between Japan and

Table 2. Examples of Japanese companies expanding into Africa [METI, 2016-2]

<b>Company</b>	<b>Sector</b>	<b>Products</b>
Kubota Corporation	Agricultural Machinery	Over 20 000 vehicles have been sold including combine harvesters and tillers
BMC international	IT	A system made in Japan to prevent value-added tax (VAT) evasion, working in Burkina Faso and Madagascar
Toridoll	Food services	Teriyaki Restaurant
Kaneka	Beauty	Synthetic Hair extensions
Rexvirt	IT	App development

Africa transformed over the years from Official development assistance other related aid and to business relationships. According to the report Southern Africa is rich in critical materials, including platinum and chrome. In recent years, natural gas fields discovered in the seas off the East African coast have been drawing increasing attention. In addition, there has been strong demand for infrastructure development, including railways and power plant construction there has recently been a conspicuous increase in the number of Japanese companies advancing into new sectors, such as B-to-B business, including sales of control equipment, and consumer product business, including sales of stationery and household-use paints. It notes that Japan's investment in Africa has been lagging behind that of other nations [METI, 2013].

Some key steps have been taken by METI and the Japanese government to increase trade relationships with Africa these are being seen as being enablers for Japan and Africa to build trustworthy business relationships. These include the Japan-Africa Ministerial Meeting for Resources Development where Japan presented its proposals with financing assistance worth approximately 200 billion yen by Japan Oil, Gas and Metals National Corporation (JOGMEC), doubling of the JETRO offices in Africa to enable assistance with Japanese companies establishing businesses in Africa, advancement of Nippon Export and Investment Insurance (NEXI) to relax its terms to cover Africa. Finally in a bid to promote private-sector trade and investment, the Japan Sustainable Mining, Investment and Technology Business Forum 2013 (J-SUMIT) and the African Fair 2013 were held, providing business matching opportunities.

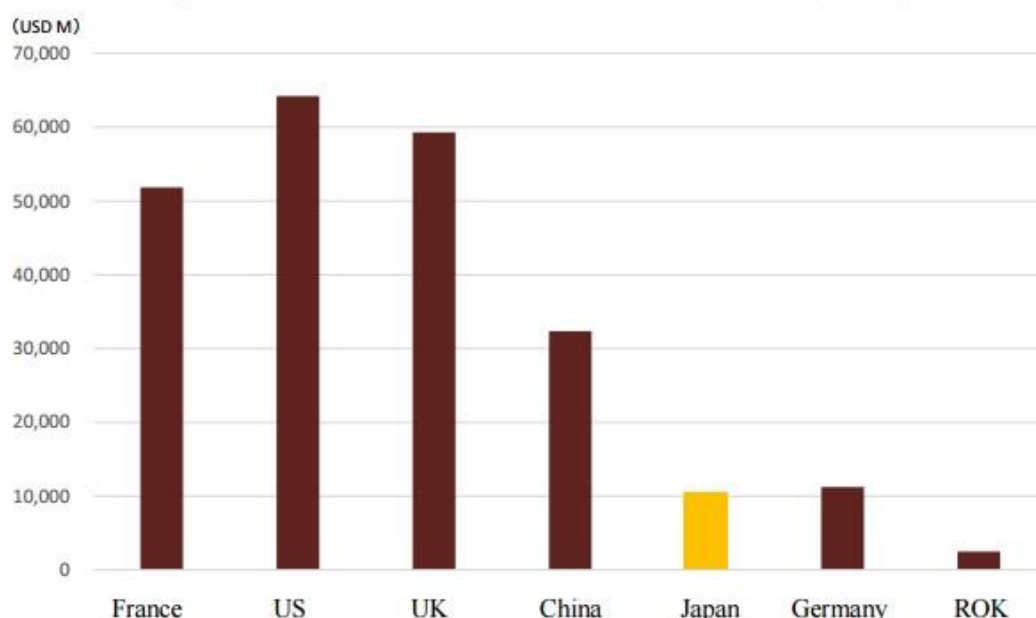
Efforts have further increased since 2013 with TICAD VI being held in Kenya and METI highlighted some success stories of Japanese companies which entered the African market and achieved success.

Some of the major destinations for investment in Africa by Japanese industries include Algeria, Angola, Burundi, Cameroon, Congo, Egypt, Ghana, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Malawi, Mauritius, Morocco, Mozambique, Nigeria, Republic of South Africa, Rwanda, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe. This is inclusive of 14 ARIPO Member States. The Investment covers the sectors summarized in Table 3.

Despite these developments, Japan's presence in Africa remains relatively low compared to other giants such as the US, EU and China. According to recent METI report, the United States and China are actively increasing investments in Africa, leaving Japan far behind. France, the United States and the United Kingdom all have outstanding balances of direct investments in Africa around five times as large as that of Japan as shown in Figure 5 [METI, 2017].

Table 3. Major Industries of Japanese Investment in Africa [METI, 2017]

Industry Type	Name of Company
Agriculture, forestry, and fishery	Sakata Seed Cooperation
	Maruha Nichiro Foods
Food	Ajinomoto Co.
	Otsuka Pharmaceutical
	JT
	Nisshin Food Products
Medicaments	Daiichi-Sankyo
	Rohto Pharmaceutical Co.
Nonferrous Metal	A Cemical Company Wiring Systems,Ltd.
	Fujikura
	YKK
Machinery	Komatsu
	DISCO Corporation
	Daikin Industries
	Nissei ASB Machine
	Nippon Pillar Packing Co.
	Hitachi Construction Machinery Co.
	FURUKAWA ROCK DRILL CO., LTD.
	Makita Corp.
	Mitsubishi Heavy Industries



Source: Presentation material at the Seminar on Business and Investment in Africa on March 3, 2016 (JETRO)

Figure 5. Investments in Africa by major economies [METI, 2017]

According to the report, China is actively making investments in infrastructure projects, including road and railway building and construction of ports and industrial zones. The report asserts that business locations established by Japanese companies in Africa account for less than 1% of the total number of business locations established by them around the world (the number of business locations established by Japanese companies in the Asia-Pacific region accounts for more than 70% of the total).

From the literature presented, it is clear that Japanese companies are actively internationalizing and expanding their global footprint. They appropriate IP rights in countries where they are investing especially in the United States and other developed countries. The data available through ARIPO statistics show that there is low filings being received from the Japanese. It is now crucial to understand whether the low filings are related to the challenges with the ARIPO itself and thus the companies preferring to use the national route or there is lack of incentive to file at all in Africa. Further, are there any experiences and perspectives from the Japanese stakeholders themselves with regards to the IP system in Africa and ARIPO? What would be the key recommendations in order for the Japanese stakeholders to consider utilizing the system for the benefit of their business?

### 3. Methodology of the Research

The study employs a qualitative research methodology that seeks to understand the Japanese stakeholder's perception of the ARIPO system. This type of research methodology seeks to understand the experiences and attitudes of respondents and answer in general the what, how and why [Bricki Green, 2007]. This is based upon the following research questions.

#### 3.1 Research Questions

##### 3.1.1 What extent are ARIPO and its IP system known to Japanese stakeholders?

Before assessing the level of utilization of IP system at ARIPO it is important to establish how much is known about the system and its existence. The author was curious to know how much was known by the Japan stakeholders and what exactly was known this would help in assessing the impact of ARIPO and its current strategies.

##### 3.1.2 What are the issues in ARIPOs IP system from the perspective and experience of Japanese stakeholders?

There are Japanese stakeholders who have utilized the ARIPO system, for the author it was important to find out what the experiences with the Japanese stakeholders had been and whether there were any challenges or gaps or even opportunities/advantages gained by the utilization of the system by the respondents. It was also key to find out whether there were any key observations and proposals for improvement of the ARIPO system.

##### 3.1.3 What are the issues in utilizing IP for expanding Japanese businesses in Africa?

Protecting IP in a region or country is determined by several factors including knowledge of the market and its characteristics including the legal and other supportive frameworks for businesses. The author tried to obtain information that could lead to an understanding of the importance and relevance of the African market to the Japanese stakeholders as this is a determining factor in whether they would seek protection in the first place.

##### 3.1.4 What are the important governmental supports for Japanese stakeholders in utilizing ARIPO system?

The ARIPO office works closely with the JPO and other related institutions in Japan in implementation of its mandate. The author sought to find out whether there was information dissemination from these and other stakeholder on the ARIPO system and if so was it adequate for the Japan stakeholders who need it.

Further information was collected through literature documents and other related studies and surveys and on-site observations. Such triangulation of various types of data collected by different methods enhances construct validity by overcoming the limitations of using only one method.

#### 3.2 Respondents for the interviews

The author selected interviewees from the list of companies that had filed for IP titles at ARIPO and those that had not filed at ARIPO and representative associations.

### 3.2.1 Companies that have protected their IP titles at ARIPO.

The author selected this group of respondents due to their past experiences and number of IP titles filed at ARIPO. These were

- i. Takeda Pharmaceutical Company that had filed 13 patents at ARIPO,
- ii. JAPEX that had filed 26 Patents at ARIPO,
- ii. Yamaha Hatsudoki Kabushiki Kaisha that has filed 48 IP titles at ARIPO including Patents and Industrial designs,
- iv. A chemical company that filed has 19 patents at ARIPO.

Interestingly these companies have a foot print in Africa so their observations are key in providing a relevant perception of the ARIPO system and conducting business in Africa and Africa as a market for Japanese goods and services.

It was impossible to get one on one interviews with Companies that had not filed for IP titles at ARIPO but through observations and questions asked at other for a the author was able to gain some insight into some of the research questions. This was done by attending a field trip to Fuji Xerox, An IP seminar in Kansai and a field trip to Honda Motor Co. Ltd.

### 3.2.2. Support organizations for IP in Japan

Support organizations are an important group of stakeholders in Japan and influential in their fields. Their views are representative of their members so due to the time limitations of this study it is key to gain insight from this broad type of stakeholder. These were;

One of them has a membership of over 1000 members in Japan and part of a global association. It works through conducting studies of international treaties and national laws of other countries with an aim to contribute to the improvement of international IP systems and to the industrial and economic development in Japan

The Japan Intellectual Property Association (JIPA), which has 1,282 members. It represents industries and users of IP system, and provides related institutions all around the world with suitable opinions on improvement of their IP systems and their utilization

Japan Patent office (JPO), a crucial stakeholder in Japans IP system and facilitates the development of the IP system not only locally in Japan but also abroad representing the concerns and views of Japanese stakeholders. The JPO has played a huge role in international norm setting and harmonization. They are a key respondent for this study and in particular for insights into how ARIPO can develop its system from the current status quo.

### 3.3 Questions for the interviews

The research questionnaires were designed in-line with the research questions and were customized to each stakeholder. The questionnaires were designed under the guidance of the supervisors and APIC's senior researcher .the questions were a mixture between open ended and instructive questions. The detailed questionnaires for each respondent are attached in the Appendixes as contained in the minutes of the meetings with the interviewees.



## 4. Results and Analysis

It is no surprise that Japanese companies hold the largest Patent portfolios in the world coming up with innovative technologies across the board. It is interesting to investigate the IP portfolios in Africa. The chapter presents the results from the in-depth interviews from 5 Japanese multinational companies, 1 law firm, 2 IP associations and the JPO. The discussion will start with a presentation and discussion of the results from the companies according to the research questions and also give a comparative analysis between the companies.

### 4.1 Basis Question and Company Overview

The basic questions were asked to get an overview of the overall IP strategy of the companies and an understanding of the business strategy in Africa. This is because IP strategy is closely linked with business and market for products and services and as discussed in the literature this is one of the foundations for formulation of an IP strategy. The results are summarized in Table 4.

As discussed in the literature, the market is important in determining IP and business strategy of an entity and this is reflected in Takeda's business strategy in Africa. Unlike other multinationals in the pharmaceutical Industry, Takeda has adopted a policy of not protecting most of its Patent in Africa due to access to medicines policy. So the company maintains a low patent portfolio on the continent. Trademarks are the most utilized route for protection of its products in Africa. This is thus a contributing factor to the low numbers of patents filed at ARIPO.

A chemical company has businesses of 5 sectors. One of Agriculture and Healthcare Sector products is specific to the African market and hence it has an IP strategy on the continent. The company has filed for patents at the ARIPO office and other countries in Africa. Agrochemicals are the most popular on the continent. The company has 3 affiliates in the region.

A different but expected trend is seen in the Oil and gas sector where a collaborative strategy is used in the market. The coalition helps in terms of mitigating risks and costs associated with IP as the company is in the upstream. Trademarks are not important to this company and it is only registered in Japan. Since the company is in an upstream sector it publishes research findings and prefers publishing over patenting except for those technologies that lead to a competitive edge in the market.

Yamaha has a very active presence in Africa and seeks to grow through its business strategy of Kanda. The company develops products specific to the needs of each market and have a well-established business strategy in Africa and other developing markets. They are the highest patent filer from Japan at the ARIPO office demonstrating their commitment and strategy in Africa. They also employ a strategy of CSR to grow their brand in the market e.g. through development of products and services for the water and sanitation projects.

Honda's strategy is determined by the type of market and its size for patents. The company rarely files for patents in Africa for motor vehicles. The patents filed in Africa are mainly for the motor bikes/bicycles and power products, further these are filed in the larger African markets such as Nigeria and South Africa. In the ARIPO region Kenya is their main market of interest. Even then the company uses the PCT route instead of the national or ARIPO route. This is chiefly because the company would like to obtain enforceable rights so the examination process through the PCT ensures to a certain extent that this is so more than the ARIPO or national route.

The companies answered the 4 research questions in their own perspectives and according to their industry specificities and their experiences. The four research questions were,

1. Research Question 1 (RQ1): What extent are ARIPO and its system known to Japanese stakeholders?
2. Research Question 2 (RQ2): What are the issues in ARIPO's IP system from the perspective of Japanese Stakeholders?
3. Research question 3 (RQ3): What are the issues in utilizing IP for expanding Japanese Business in Africa?
4. Research Question 4 (RQ4): What are the important Governmental supports for Japanese stakeholders in utilizing the foreign IP systems?

Table 4. Responses to Basis Questions

Company name	Takeda	JAPEX	A chemical company	Yamaha	Honda
Number of filing to ARIPO	- 13 Patents	- No patents filed individually, - 26 Patents as Joint applicant	19 Patents	44 Patents 4 Designs	3 Patents 6 Designs
Products and services to Africa	- 2 drugs fully registered	- Non directly	- Agriculture products and Health related products	- Pumps, vehicles, power products, water and sanitation solutions	- Power products - vehicles
Business strategy to Africa	- Access to medicine policy	- Consortium strategy - Patents only Tanzania and Mozambique	- Agricultural and Health Sector - established 3 affiliates in region	- Well established growth strategy linked to CSR - market, size, localized solutions	- Specific to particular countries where there is business e.g. Kenya, Nigeria and South Africa
IP Policy for African business	- IP very important - Non filing of Patents, Trademarks mostly used, fear of parallel importation, - voluntary licenses for local manufacturers	- consortium strategy - planning on filing first patent through PCT	- IP very important - Patents and Trademarks	- IP very important - Patents trademarks and Industrial Designs	- Selective - based on Market size for patents - Trademarks and designs most widely used IP title in African countries
How to apply to African region	- Paris and Madrid for Trademarks - ARIPO for Patents	- ARIPO through Consortium - Uses trade secrets	- Paris for Patents and Trademarks - ARIPO for Patents	- Paris ARIPO for designs and Patents	- Paris ARIPO used as a pilot

Table 5 Responses to Interview Questions

Summary of the Interviews to Companies					
Company name	Takeda	JAPEX	A chemical company	Yamaha	Honda
<b>RQ1: Awareness of ARIPO</b>	<ul style="list-style-type: none"> <li>- Aware(Patents)</li> <li>- lacked information on ARIPO in general</li> <li>- not sure of effectiveness of ARIPO trademarks</li> </ul>	<ul style="list-style-type: none"> <li>- Not aware consortium deals with ARIPO</li> </ul>	<ul style="list-style-type: none"> <li>- Aware (Patents)</li> <li>-lacked information uncertain (Trademark system)</li> </ul>	<ul style="list-style-type: none"> <li>- Aware(Patents )</li> <li>-Uncertain Trademark system</li> <li>Lacked information</li> </ul>	<ul style="list-style-type: none"> <li>• Aware</li> <li>• Market is small in ARIPO region</li> </ul>
<b>RQ2: Issues in ARIPO System</b>	<ul style="list-style-type: none"> <li>- Low legislative power &amp; Political influence/ muscle no buy-in from MS.</li> <li>- trends by other multinationals not to protect Trademarks at ARIPO</li> <li>- high attorney costs</li> <li>- Non-domestication</li> <li>- No Harmonization</li> <li>- Lack of Clarity in general</li> <li>- Banjul enforcement &amp; enforceability of rights</li> <li>- Prosecution steps not clear</li> <li>- Website inadequate</li> <li>Advice by agents not use the system</li> </ul>	<ul style="list-style-type: none"> <li>- Non-Unitary system</li> <li>- No issues generally Consortium deals directly with ARIPO</li> </ul>	<ul style="list-style-type: none"> <li>-Enforcement</li> <li>-issues with Banjul</li> <li>-Clarity</li> <li>-Information</li> <li>-delays in processing</li> <li>-Legal (Tanzania &amp; Zanzibar)</li> <li>-Enforceability</li> <li>Website inadequate</li> </ul>	<ul style="list-style-type: none"> <li>-Trademarks</li> <li>-Clarity effectiveness of the system</li> <li>-Communication enforcement</li> <li>-Banjul issues</li> <li>-Contradictory information</li> <li>-No-Domestication</li> <li>No-Harmonization</li> </ul>	<ul style="list-style-type: none"> <li>-Delays in processing</li> <li>-Communication challenges</li> <li>- No-Relevant information i.e. examination guidelines, documentation requirements, filing information timelines</li> <li>- Lack of skills of attorneys</li> <li>-No capacity to deal with patent infringement (courts and agents)</li> <li>- website inadequate</li> <li>-Issues with Banjul</li> <li>-Enforcement too many difficulties in trying to protect and enforce ARIPO titles</li> </ul>

Summary of the Interviews to Companies					
Company name	Takeda	JAPEX	A chemical company	Yamaha	Honda
<b>RQ3: IP issues in African Business</b>	<ul style="list-style-type: none"> <li>- No domestication of laws</li> <li>-No Harmonization</li> <li>-Poor enforcement system</li> </ul> IP system in general (non-sophisticated)	Harmonization	<ul style="list-style-type: none"> <li>-Enforcement</li> <li>-Inadequate Information</li> <li>Lack of skills and capacity to deal with IP</li> </ul>	<ul style="list-style-type: none"> <li>- Unrest</li> <li>- inadequate information</li> </ul> How to conduct business on the continent	<ul style="list-style-type: none"> <li>-effectiveness of IP litigation</li> <li>-unsure of exercise of rights</li> <li>-unsure of stability of rights</li> <li>-poor enforcement system</li> <li>low skills and capacity to deal with IP</li> </ul>
<b>RQ4: Needs in Governmental Support</b>	Information available is inadequate and outdated	<ul style="list-style-type: none"> <li>- Collaboration between ARIPO and JPO is good</li> </ul> Inadequate education on Africa	<ul style="list-style-type: none"> <li>-JPO provides information rare to come across training or awareness programmes on Africa</li> </ul>	<ul style="list-style-type: none"> <li>- Inadequate information relating to ARIPO especially on Trademarks</li> </ul> JETRO provides training but inadequate coverage of Africa	<ul style="list-style-type: none"> <li>-JPO, JETRO etc. provide information very little coverage and training of Africa IP and legal systems</li> </ul>

## 4.1. Discussions

### 4.1.1 Research Question 1: What extent are ARIPO and its system known to Japanese stakeholders

When an applicant seeks to protect their IP titles outside their country of region they utilise various types of advisory services and personal research to gain a clear picture and build an appropriate strategy.

The companies under study clearly display these characteristics and highlight areas of concern over ARIPO's system. All the companies interviewed rely on information from attorneys and agents to get in-depth knowledge of the IP protection systems in Africa and at ARIPO. The ARIPO website is the most frequently used source of information as 4 out of the 5 companies affirmed this. JPO and WIPO are sources of information when these companies are about to seek protection. This highlights the importance of these stakeholders within the framework of ARIPO's work, as will be seen later when the agents have inadequate information or having diverging views on the system it causes confusion and ARIPO is required to carry out a greater role of information dissemination beyond the immediate clients or stakeholders who are local to the international community.

The table also highlights some of the factors that drive the utilization of the ARIPO system. These include expansion into African territory i.e. Takeda, business consortium strategy i.e. JPEX, Market e.g. Honda Yamaha and A chemical company.

4 out of the 5 companies highlighted that they were uncertain of the ARIPO trademark system so they do not protect their trademarks through the ARIPO system. As will be seen in RQ2 the Trademark system is a key factor driving applicants away from the system.

4 out of the 5 companies highlighted that there was inadequate information on ARIPO and its system JAPEX felt it was adequate since they do not directly file or manage the rights as these are done. It is interesting to note the information requirements being highlighted and this is information that is probably not prominently displayed on the website but maybe more so inside other pages and some of this information is not currently available on the website.

Information requirements include enforcement, prosecution steps and examination guideline (both ARIPO and that for Member states). Delays in processing and communication challenges and contradictory opinions on ARIPO from the agents raised concerns with the companies. The question posed was, what is IP without enforcement or enforceability? What is IP without timelines. These are questions that need to be considered by IP offices if they seek to serve their clients. This involves evolving of the office from merely just participating in the granting of rights but playing a key role in the enforcement of these rights and participating actively in the development of legislation and legal rules governing enforcement especially as they relate to the granting of IP titles.

This can be observed by the multifunctional role that JPO has in enforcement of rights in Japan. Not only does the office provide a legal administrative route in invalidation procedures but also supports the courts by providing researchers who are JPO examiners to assist the judges in prosecuting matters related to IP which can be highly technical. As will be seen in RQ2 a question was posed by one of the companies was that if we protect our patents in Africa will the courts have the technical capacity to adjudicate on the matters? Further what can ARIPO do to ensure that the technical matters are dealt with sufficiently in the Member states courts?

### 4.1.2 Research Question 2: What are the issues in ARIPO's IP system from the perspective of Japanese Stakeholders?

The specific challenges with the utilization of the ARIPO system consist of issues discussed in the literature and clearly show the link between agents and their clients. Views/ opinions on the IP system can become “law” and when these are not corrected or addressed by authoritative agencies they can have multiplier effect and indirectly affect the IP system in question itself. The results from the interviews reveal that Yamaha, Takeda and Honda had received advice not to use the ARIPO trademark registration system due to the low levels of domestication and Yamaha added that the low subscription i.e. only 10 out of the 19 member states are party to the protocol was also. Further indications are that other multinational companies do not subscribe to the system and use the national offices either via the Paris e.g. Yamaha or via the Madrid e.g. Takeda. The other interviewees from the remaining two companies had no detailed information regarding the trademarks in their companies.

The Banjul Protocol and thus the ARIPO trademark system are the major deterrent of utilization of the ARIPO system. The clients seek to protect marks first before protecting patents or other IP titles. When they get negative information regarding the Banjul protocol they are hesitant to use the system for other titles. Challenges with the Banjul protocol were indicated by 4 out of the 5 companies interviewed. The specific challenges related to the Banjul protocol were as follows:

- Non domestication of the protocol in the Member States
- Non harmonization of trademark procedures in ARIPO Member States
- Non-enforceability of rights granted under the protocol due to lack of domestication
- Low subscription by other Member States to the protocol
- Contradictory opinions from different agents
- No information or official position from ARIPO to clarify the concerns
- No guidelines for processing at ARIPO and procedures at Member states including timelines for these processes

The interviewees, for example, Takeda expanded the discussion surrounding the Banjul and what effect it has on perceptions regarding ARIPO in general. The lack of domestication and the low subscription to the Protocol indicate that ARIPO has low legislative power, political influence/ muscle and low buy-in from Member States themselves. This means that in general the ARIPO system is not effective and the rights granted under the protocol are unenforceable in the designated states. Further other multinationals do not use the ARIPO system to protect trademarks making it further difficult for the companies to use the system.

The other challenges further highlighted by the companies include the doubts that have been cast over the enforceability of the ARIPO rights due to in some instances contrasting opinions by different agents. The companies were not sure why they got such different advice by each different agents contacted probably in their view indicating a system granting unstable rights. Due to these challenges the companies believe that the ARIPO system is not effective for them to use.

All the companies interviewed have used the ARIPO system. 4/5 expressed concern over delays in processing and granting rights, delays in communication or no response at all to the extent that they give up and let the rights lapse. The 4 companies further enquired on the number of staff dealing with substantive examination and formalities and questioned whether these are adequate to handle the applications received at the office. Further if the companies were to file the large volume of patents they file internationally then ARIPO would not have sufficient technical capacity to manage the processing.

This is a key indication that there is need to manage the information on ARIPO and provide adequate information directly from the source. As indicated by Yamaha it is sometimes

preferable to speak directly to ARIPO for clarity with timeous response to any enquiries and or communication.

Takeda raised an important point that it is not only the trademarks that are in doubt but the patent system too as they indicated that companies are seeking double protection for example in Kenya where they designate Kenya in the ARIPO application and then also file directly with the IP office to ensure that their rights are fully protected. This double protection compounded by the fact that some companies e.g. Takeda have to pay twice the amount of legal fees because they use agents in the UK and then ARIPO makes the ARIPO system expensive. Yamaha and Honda indicated that representation was not a challenge and Yamaha indicated that the ARIPO system saves them some costs and it was a very convenient system.

The non-unitary nature of the ARIPO system has been indicated as a challenge. Yamaha indicated that there were no challenges with this as yet but they foresee challenges in the future during enforcement. JAPEX indicated that a more unitary system such as that in Eurasia was preferable. A chemical company expressed concern over the lack of clarity on whether rights granted in Tanganyika were effective in Zanzibar, the company indicated that they have made several enquiries and have not received a conclusive response.

Gaps in information and accessibility of information via the ARIPO website were indicated as key challenges by 4 out of the 5 companies interviewed (exception is JAPEX). Trying to find the information was a tedious process and most times the information they require is not available. Honda indicated that websites such as EPO and WIPO had user friendly with all relevant information being clearly available.

Practical information for processing IP titles at ARIPO and at Member States was not available on the ARIPO website. This included examination guidelines, flow charts of all processes, applicable timelines, documentation requirements and detailed filing information.

4 out of the 5 companies highlighted challenges with local agents in ARIPO Member States. Honda indicated that they do not know who the qualified IP agents are, where there are, what sort of skills and experience they have. There are challenges with litigation as the agents are not properly qualified and some cannot provide adequate information about the ARIPO system itself. The skills of the agents is a critical factor according to the interviewees because this will help reduce the costs associated with for example going through European agents to file at ARIPO and other national offices.

Honda questioned the ability of the courts to deal with patent infringement due to lack of technical skill capacity in the agents and the judges themselves. They indicated that they had attended a seminar on enforcement which was being facilitated by a local judge and he seemed to be unaware of the issues related to IP infringement and was just beginning to learn in the workshop. This gave the company doubts on whether enforcement mechanisms would work if the judges lacked the skills and awareness regarding simple IP issues.

Overall the issue of clarity is an impediment. ARIPO and its Member States should give clear positions on matters of concern to applicants directly and officially from ARIPO and Member states to enhance the confidence of the system.

The companies made some recommendations for the improvement of the ARIPO system as follows:

- ARIPO should demonstrate its value proposition and difference with other systems
- Increase collaboration with JPO and JIPA in Japan
- Provide more information on the system
- Increase skills development of examiners, lawyers and enforcement agents including judges
- Provide an online database similar to Patent-scope for its titles and those at Member states

#### 4.1.3 Research question 3: What are the issues in utilizing IP for expanding Japanese Business in Africa?

Due to increased debates on Public health and intellectual property Takeda indicated that it will not undertake the enforcement of Patents in Africa and will not be filing any new titles. Therefore its strategy has changed. Trademark protection will be the widely used IP protection tool in Africa for the company. JAPEX, Honda, Yamaha and a chemical company indicated that although the activities were low there are growth prospects and foresee the increased protection of IP titles on the continent and at ARIPO especially with regards to trademarks. Honda indicated that they focus on the PCT because it gives some sort of assurance over the quality of the right granted and so enter the national route through the PCT. There are concerns over instability in some countries for example Yamaha had to stop a project in some African country due to the unrest taking place there. Takeda highlighted that an important motivation for seeking protection was a well functional system where there is clarity and predictability, further it was important for enforcement system to be fully functional. A chemical company mirrored Takeda's concerns on enforcement and JAPEX stated that the consortium handled the strategy and its implementation. Honda indicated that major challenges and concerns were related to effectiveness of IP litigation, exercise of rights, stability of rights and the skills and capacity of those handling IP matters.

#### 4.1.4 Research Question 4: What are the important Governmental supports for Japanese stakeholders in utilizing the foreign IP systems?

In the investigation of the utilization of a system it was important to understand the level of public information and support from public institutions. This is because the Japanese government and related institutions as described in the literature provide information and support for companies who are doing business in Africa.

Takeda, Yamaha and Honda stated that the information available on ARIPO and IP systems in Africa was very scarce. The 3 companies are actively involved in business and have sought information before and explained that the level of effort that has to be put in to obtain such information is huge. Further they pointed out that on some platforms from Japan public institutions the information available was outdated. JAPEX is not directly involved in seeking information as the filing and administering of the rights is done under the collaborative forum JOGMEC. In contrast to the views of the other companies, a chemical company stated that they believed that adequate information was provided by the JPO.

With regards to training programs, workshops seminars or presentations all companies highlighted that there was inadequate information and activity on Africa. Although institutions such as JETRO provide information and training on related matters there was very little coverage in terms of ARIPO and other African IP systems.

The interviewees suggested that more could be done by both JPO and ARIPO to deliberately engage in local related activities and provide the necessary content.

#### 4.1.5 Further IP issues

Issues related to the growth prospects in Africa, counterfeiting/enforcement and technology transfer were also discussed in the interviews. These issues are important to assess the future prospects and possibility of growth of IP filings in the region and increased collaborative effort through technology transfer will not only benefit those involved but also promote the utilization of the system by local stakeholders as well. When they receive technologies and apply them for their business and other related activities it will increase their awareness and use as well.



The WIPO green project has been a clear demonstration of the potential that lies in the technology transfer and collaboration amongst developing countries and the developed world. The project could be used as a model to fulfil the obligations under TRIPS agreement for technology transfer to Developing countries and least developing countries. As discussed earlier the issue of enforcement is at the heart of any corporate and or IP owner and hence the issues related to this are of concern to them. Summary of the discussions is shown in Table 6.

Takeda is just entering the African market. The company said that prevailing government policy and strategy affects the decision for growth and expansion. They indicated that the company TICAD VI meeting held in Kenya and officially launched a center of research

Table 6 Summary of IP related Issues

<b>Company</b>	<b>What is positioning regards to increased growth prospects in Africa</b>	<b>Counterfeiting and related challenges</b>	<b>Technology transfer and related issues</b>
Takeda	Just entering the African market, there are prospects for growth. Government policy is also increasing interest in Africa through the TICAD which was attended by the prime Minister	not experienced this challenge on the African market and there will be increased activities in the near future so the company is aware of the risks	has established a centre of Research excellence in Kenya and this was launched at the TICAD The company is offering voluntary licences for low cost manufacturing of drugs in Africa, Collaborates with African researchers on neglected disease
JAPEX	There is very little capacity in the Japanese oil and gas companies as they are small relative to major multinationals	the company has come up with green technologies	Waste water treatment the industrial company operates the treatment and other collaborations with other companies and in this sense technology transfer is possible.
Yamaha	The company is actively involved in Africa and seeks to grow in the market	Enforcement is very serious challenge and concern as there has been evolution of the counterfeits counterfeit components are sold separately and then reassembled at the destination so they are very difficult to track	The company is actively seeking technology collaboration

excellence which will see collaboration between Takeda researchers and local researchers. The company has a policy of developing healthcare systems far beyond the medicine alone and assist in the general development of the health ecosystem. The company is prepared to offer voluntary licenses to pharmaceutical manufacturers for low cost production.

JAPEX highlighted the low capacity in individual companies in the oil and gas sector to fully explore their businesses but as consortiums there was greater possibilities. The company does develop green technologies for the sector including those for waste water treatment. The company is looking to find out information on the needs in Africa so that they can exchange their knowledge. They indicated that ARIPO can be of assistance in such facilitation with locals who may have use for the technologies.

Yamaha stated that they are seeking to grow their market in Africa. They are concerns with the growing number of counterfeit products in the African market. The company is actively seeking opportunities to collaborate with local innovators for joint implementation of their projects in the water and sanitation sector. They indicated that ARIPO could be of support to facilitate such mechanisms.

#### 4.1.6 Supporting institutions

The survey interviewed IP supporting institutions in Japan to gain a better understanding of the IP ecosystem and views on ARIPO and its utilization. The institutions interviewed included 2 associations each with a membership of over 1000 companies and IP specialist, A law firm which is in the top 3 of Japans biggest law-firms the local head office In Japan and their African based lawyer and the Japan Patent office. The questions asked to the interviewees followed the same format of the research questions of the companies to obtain a view of the clients and members of the institutions. This will help gain a wider scope of views due to the limitation of time for this study.

#### **Basis questions**

The table above summarises the views of the supporting institutions on the IP system in Africa and ARIPO as an institution that registers IP titles. All supporting institutions indicated that market and its size were the key determinants for seeking IP protection and is also a tool for gaining a competitive negotiation advantage. JIPA indicated that enforceability of a right was important, the presence of business activity in that market was also key and thirdly the presence of subsidiaries was also critical as drivers for seeking IP protection. 2 respondents indicated that Japanese companies are expanding their technology and investments and A LAW FIRM noted that Japanese companies were seeking to protect mostly trademarks.

With regards to the views on the IP systems in Africa the interviewees noted that the African IP systems are developing. The interviewees all noted that there was generally very little information available on the IP systems. Further as indicated by A LAW FIRM there was very few publications in Japanese language. In terms of the specific information required, the following list summarizes the responses by all respondents.

- Administrative, procedures especially examination practices and guidelines
- Enforcement information
- Trademark system in ARIPO

Table 7 summary of Business strategy in Africa by Interviewed Companies

<b>Company</b>	<b>Overview</b>
An Organization of IP	Competitive edge in foreign market, tool for negotiation Domestic competition fierce and local filing then important technologies in the global sphere, caused the copying of Japanese technologies as they were not published outside Japan, now Japanese companies are putting an emphasis on investments and market developments Very little information about Africa is available, very little is available in Japanese language, the market has to be promising, issues that need addressing in terms of IP is transparency of administrative procedures especially examination guidelines and practices
A Law Firm	Market is the largest driver of seeking IP protection Clients seek mostly trademarks IP systems are developing need improvement, uncertainty with regards to outcome of examination lack of information and enforcement challenges
JIPA	There are 3 basic principles presence of company in the target market, IP enforceability, and the presence of subsidiaries because the companies need to earn royalties from these Companies are currently focusing on expansion of existing technologies and may not necessarily be seeking expansion globally Stepwise process of entering market, trademarks initially, high probability of counterfeiting then designs are protected, competition leads to patent protection, Japanese companies are interested in acquiring trademark rights in Africa, OAPI is providing better protection of trademarks
JPO	There is increase in interest in Africa by Japan and the white book published by METI has shown these indications that Japan is now focusing on Africa

It is key to note that all respondents indicated that trademarks are the most IP titles required or requested by the applicants. As indicated by JIPA, there is a stepwise IP acquisition strategy by companies as the following.

- Trademark protection as the company enters the market
- Design protection if there is high likelihood of counterfeiting
- Patent protection if there is competition

The disadvantage for ARIPO amongst applicants is the weak trademark regime as indicated by JIPA which means that when companies fail to use the system for trademarks they will not be very likely to use it for patents and other IP titles and more so for the very key technologies that are important to the company. Applicants view OAPI trademark system as more effective than the ARIPO system

RQ 2 : To what extent are ARIPO and its system known to Japanese stakeholders?

Table 8 Level of Awareness of ARIPO system by Japanese Stakeholders

<b>Company</b>	<b>Awareness of the ARIPO system</b>	<b>Demand for ARIPO</b>	<b>Advisory information/ Members to clients</b>
AN ORGANIZATION OF IP	Growing due the relationships with JPO need to clarify procedures and improve environment for enforcement	The first point of call when entering market is trademark, if trademark system is not well developed then there is hesitance to protect other titles, pharmaceutical companies most interested in patent protection the rest of industry take a wait and see attitude	Very little information to provide to clients on ARIPO, 1 <sup>st</sup> step is to publish articles about ARIPO in Japanese IP journals or hold seminars in Japan, make trademark rights more accessible by clarifying guidelines, legal remedies
A LAW FIRM	Pharmaceutical companies are more interested in patents but currently use the Paris route, food and beverage industry is very interested in filing but mostly trademarks, general low level of awareness	General low level of awareness	There is doubt on the effectiveness of the ARIPO trademark system, mostly SMES file at ARIPO, larger companies prefer the Paris route.
JIPA	Pharmaceutical companies are more interested in patents and have carried out in-depth studies, mechanical and electronic not very interested in patents but trademarks	Demand is less due to the trademark system	Not certain about the trademark system, need more information
JPO	The interest is there but there is need for more information on IP practice and expandability of business, need to intergrate IP issues and ARIPO during the TICAD process, ARIPO can take a role of match maker between Japanese companies and African companies this can build the role and influence of ARIPO	JPO send people to the JETRO liaison office in Dubai UAE office to collect information from law-firms serviced by the Office	ARIPO is constantly updating its information on the website it is important that information and news on member states is also available especially statistics

In terms of the awareness of the ARIPO system respondents acknowledged that it was growing due to the strong relationships with JPO but there was a need to clarify the procedures,, all of a low firm, JIPA and an organization of IP indicated that the pharmaceutical sector had the highest interest in seeking patent protection but because they have huge IP departments they mostly file under the Paris route (as indicated by a low firm). The JPO indicated that ARIPO needs to take leadership of IP on the continent and this can be done, for example, through the TICAD process where IP issues can be included and ARIPO plays a further role of being a matchmaker between the companies from Japan and those in Africa.

The respondents offered some key recommendations for the improvement of the ARIPO system as follows.

- Publish key information on ARIPO in Japanese or other key languages
- Improve the trademark system and clarify procedures including those at the Member states
- Provide information on enforceability of ARIPO trademarks

It is important to also note the sources of information, i.e. JETRO for the JPO and how they collect their information on ARIPO, i.e. through lawyers. It is important that ARIPO communicates its information directly as much as possible to all relevant stakeholders.

RQ 2: What are the issues in ARIPO's IP system from the perspective of Japanese stakeholders?

In terms of the advantages of the ARIPO system, an organization of IP, JPO and JIPA indicated that it was generally easier to do business and communicate in English speaking countries. ARIPO is a key point of entry into these countries. A law firm indicated that general information on the system was available on the website. JPO further indicated that a non-unitary system was advantageous because it helped maintain a political balance as the countries retained a certain level of independence.

With regards to the challenges of the system as indicated earlier lack of detailed information was a challenge. This included information on ARIPO activities with regards to building and developing the IP system as this would be very interesting to potential applicants further, as stated earlier, the need for translated documents is critical.

- Practical information, flowcharts of all the processes and procedures
- Information on IP utilization especially with regards to patent would be more effective in convincing clients to use the system
- Success stories of IP in the region
- Enforcement information including case-law on industrial property will be useful
- ARIPO should make itself more available for direct communication
- Lack of harmonization with Member states (one has to know the different systems and procedures t each national office)
- Need for uniformity in the ARIPO member states in processing IP titles
- Low subscription to the Banjul and uncertainties surrounding the trademark system
- Low technical capacity regarding patents (if the patent is not enforceable then why should one protect it), e.g. 20 senior examiners provide technical support to the IP high court in Japan and the appeal examination process are good examples of how ARIPO can structure support to the courts in Member states

Table 9 Summary of Challenges with Utilization of the ARIPO system by Japanese stakeholders

Institution	Key Observations
An organization of IP	<ul style="list-style-type: none"> <li>- ease of doing business in English speaking countries is an advantage for ARIPO and becomes the central point for many African countries</li> <li>- More information is required,</li> <li>- promotional exchanges with Japanese stakeholders,</li> <li>- provide information in Japanese language about efforts and activities to promote the system</li> <li>- Enforcement, patent not workable if enforcement does not work, important to build capacity in the courts by provision of technical support to the Member states courts e.g. high court of Japan has 20 researchers who are senior examiners, appeal examination process, administrative relief through the JPO process outside the court process,</li> <li>- clarification and simplification of procedures for all IP titles granted at ARIPO and at the Member states,</li> <li>- promote utilization and awareness of IP in member states</li> </ul>
A law firm	<ul style="list-style-type: none"> <li>- Information is inadequate especially practical information i.e. FAQs, flow charts which are practical and detailed would be more helpful. information on IP utilization especially related to Patents, success stories are popular with Japanese clients,</li> <li>- enforcement information and contacts,</li> <li>- direct ARIPO contacts are also very important</li> <li>- Inadequate mechanisms for substantive examination of trademarks resulting in fraudulent marks being registered, A basic internet search can be useful,</li> <li>- provision for the protection of well-known marks also important,</li> <li>- lack of case-law, lack of surety on enforceability makes applicants hesitant</li> <li>- Domestication is the major challenge,</li> <li>- IP landscape becomes very complex in addition to PCT and Madrid, coordination and support mechanisms to the Member states on enforcement will be very important,</li> <li>- presentation of differences between ARIPO and other systems and value of using the system, ARIPO should input more efforts into domestication</li> </ul>
JIPA	<ul style="list-style-type: none"> <li>- English speaking countries more established and easier for entry due to language</li> <li>- Lack of harmonization is the major challenge for Japanese companies, the approval process by Member States makes it difficult as one has to know the different systems in each country and then later managing the rights in each country</li> <li>- Uniformity in processes and procedures including forms at the national offices for processing the registrations is essential</li> <li>- Domestication and harmonization are critical</li> </ul>

Institution	Key Observations
JPO	<ul style="list-style-type: none"> <li>- Unitary system helps to manage political differences</li> <li>- Low subscription of the Banjul protocol is viewed as a challenge,</li> <li>- ARIPO should be user-centered in order to increase its filings,</li> <li>- if there are slight uncertainties e.g. Banjul then applicants have little motive to use the system</li> <li>- Applicants are sceptical about enforceability because it is dependent on the law of each country,</li> <li>- difficult to find high quality agents in some Member States and applicants use EU lawyers,</li> <li>- fees are higher than South Africa,</li> <li>- ARIPO has to ensure that Member States have adequate processes in place to handle its applications and these should be known to ARIPO and disseminated by ARIPO</li> </ul>

- Inadequate trademark examination resulting in fraudulent marks being registered which even a simple internet search can provide information on
- Need for ARIPO to be user centric
- Lack of surety with regards to enforceability makes applicants hesitant
- It is difficult to find high quality agents in the region knowledgeable about IP
- High fees

With regards to the legal system of ARIPO the respondent agreed that the legal system was well developed the following were stated as areas that need improvement

- Simplification and clarification of procedures at ARIPO and at member states
- Promote utilization and awareness of IP in Member states
- Domestication should be addressed as it complicates the legal landscape in addition to PCT and Madrid
- Coordination and support of member states with regards to enforcement is critical
- ARIPO should clarify and promote its value proposition
- ARIPO should ensure that its member states have adequate processes and resources to handle its applications and these should be known to and publicised by ARIPO.

**RQ4: What are the issues in utilizing IP for expanding businesses in Africa?**

It is important to understand some of the business strategies of Japanese companies and their interaction with IP to get some valuable insights into the drivers of the utilization of the ARIPO system. The respondents' views are key in that they will to some extent reflect on the membership of these companies and institutions.

An organization of IP and JPO indicated that the growing interest in Africa from a political perspective was influencing the business activities of Japanese companies in Africa. An organization of IP and a law firm indicated that the aging population and the general decline in growth rate of the population were drivers for the companies to seek new markets and workforce outside the country. Further all respondents acknowledged that distance of the continent was also a factor. Other key factors include the following:

- Language barrier
- Japanese companies are generally non risk takers and small doubts will make them hesitant

Table 10 Challenges faced by Japanese companies with expansion of Business in Africa

Institution	Issues related to expansion of Japanese companies into Africa
AN ORGANIZATION OF IP	<ul style="list-style-type: none"> <li>- Since Japanese market is shrinking there is interest in Africa as companies are looking for new business opportunities in South East Asia, South America and Africa</li> <li>- Very few personnel to manage IP in foreign market therefore companies are hesitant to invest in foreign country if IP is not controlled and counterfeiting is not addressed</li> <li>- Historical focus on local, US, EU, China and Korean markets but this has changed</li> </ul>
A LAW FIRM	<ul style="list-style-type: none"> <li>- Japanese companies are not risk takers, any small doubts will make them reluctant to take action, non-confrontational nature, language barrier is a major challenge, distance of Africa, aging population</li> <li>- Lack of information is a major hindrance</li> </ul>
JIPA	<ul style="list-style-type: none"> <li>- IP system is a precondition for any business to enter a market and unless it is fully developed there is reluctance for companies to make an investment</li> <li>- Generally the IP systems should be harmonized i.e. same forms, same format, same search, same examination and same patent</li> <li>- Japanese products are always of high quality so if a market is ready to purchase high quality products then Japanese companies are willing to do business</li> </ul>
JPO	<ul style="list-style-type: none"> <li>- Growing acknowledgement of Africa as a growth center, seminars by JETRO and African ambassadors, various meetings were held in Kenya during the TICAD</li> <li>- IP system is indispensable to business and it supports industrial development, need to enhance awareness at high level when properly prioritised this can be simple, continuous engagement with policymakers is crucial,</li> <li>- ARIPO should utilize the TICAD and other high level political forums including WIPO to popularise and promote IP, a framework that worked for Japan was the IP basic Act</li> </ul>

- Generally Japanese are no-confrontational and thus depend more on the quality of the title granted
- IP system is a pre-condition for most Japanese companies before entering into a market
- Very few IP personnel in foreign markets hence companies tend to be hesitant if the quality of rights is low
- The lack of required information also makes applicants hesitant to use the system

The institutions highlighted some recommendations for ARIPO as follows.

- Continuous high level engagement utilising different platforms such as TICAD and WIPO
- Undertake coordinated promotional activities for the utilization of the IP system, e.g. the Japanese used the IP basic act.



ARIPO should identify key industrial development sectors and align the IP system to it and help popularise IP by demonstrating the role IP has to play in success of the industries e.g. some office have identified green technologies and offer incentives or fast tracked process, the patent prosecution highway is a good example. ARIPO can design processes and promotion to its Member states and this could also assist in building the influence of ARIPO.

RQ5: What are the important Governmental supports for Japanese stakeholders in utilizing the ARIPO system?

The respondents in this section are all engaged in promoting different IP systems and building awareness. It was important to get their views on the promotional activities and sources of their information. All respondents indicated that JETRO was the major source of their IP and business related information for foreign markets, A law firm further indicated that although JETRO held such activities they were mainly focused on China and ASEAN countries. JIPA indicated that they dispatched a team to learn about the systems in Africa but such information was difficult to come by. It is important that ARIPO directly disseminates its own information and holds seminars in Japan or participate in those that are carried out or done by other institutions such as JETRO and JPO.

Most exchanges and programmes are directed at offering training and support to ARIPO member states and related programmes but are not directly aimed at increasing the capacity or knowhow of the Japanese stakeholders themselves on the African IP systems. The JETRO office responsible for Africa produces reports and newsletters which are a source of information for JPO and other stakeholders. JIPA has translated a few of the ARIPO articles for its members.

Table 11 Governmental Support for utilization of ARIPO system

Institution	Efforts to increase the level of IP awareness
An organization of IP	- Utilization of the JETRO system
A law firm	- Mostly seminars on ASEAN countries and China non yet on Africa - JETRO seminars are very important for Japanese companies if ARIPO could collaborate and participate in them it would be helpful, JIPPA has a budget for sending members to Africa so collaborative mechanisms should be put in place to design mutually beneficial programmes.
JIPA	- JIPA dispatched a team to Africa to train and learn more information and returned to hold seminars, - JIPA translates some of ARIPO articles
JPO	- It is hard to acquire information on the system and the practices, a seminar by ARIPO may be helpful - JETRO provides business information and promotion, ARIPO website should contain more information about the Member states, JETRO Dubai is responsible for all information collection with regards to Africa and produces newsletters, country reports are also used to gather information

## 4. Results and Analysis

The interviews with the stakeholders revealed the concerns over intellectual property and its protection in Africa and at ARIPO. The views of the companies were similar to those of the supporting institutions probably because the supporting institutions members include the companies so they have a common view related to Africa and ARIPO. The diagram below summarises the challenges and views faced by Japanese stakeholders in utilising the IP system in Africa and at ARIPO.

As indicated in the figure above the key areas that result in the low utilisation of the ARIPO system by Japanese stakeholders can be summarised in the following 6 broad categories.

### i. Information related issues

These include the website not containing the relevant practical information required by applicants, inadequate information available, lack of guidelines for all procedures at the office and its Member States (examination guidelines, process flow charts, requirements), no clarity regards to opinions made by agents and other third parties, no/ infrequent publications containing information relevant to applicants.

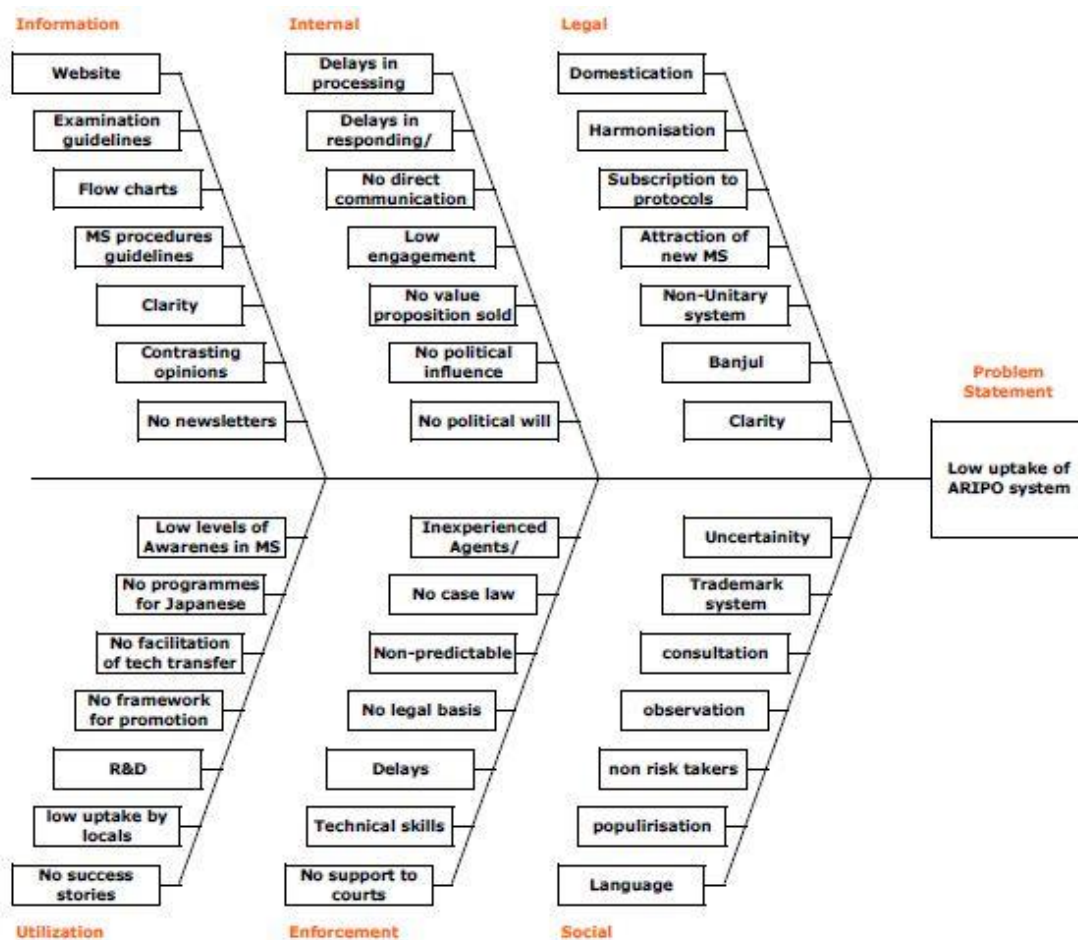


Figure 6 Outline of key challenges faced in the Utilization of the ARIPO system

ii. Internal issues within ARIPO and its Member States

Delays in processing and granting rights was cited as a major challenge, the low numbers of staff dealing with Patents and trademarks at ARIPO and probably at the Member states was stated as a contributing factor to delays. Further communication challenges existed with delayed responses to communication or no responses at all too enquiries making ARIPO inaccessible to applicants. There is an assumption that the benefits of using ARIPO are obvious or agents will represent the institution well to the applicants but this is not so. Applicants' views on the system or what they have been told in some cases is not the situation obtaining on the ground e.g. need for additional management of processing procedures in each Member State Office after ARIPO phase of the application before grant and other related issues. The low subscription and domestication of the Banjul is an indication of lack of legislative or political influence or power of ARIPO by its Member States.

iii. Legal related issues

Participants to the study indicated that the legal mechanism in the ARIPO system were confusing and in their view are inadequate because of the lack of harmonization of procedures at ARIPO and its Member States. Low domestication of the Banjul protocol indicated to them that the rights granted become un-enforceable, and thus lack stability. If this is not so then ARIPO has not communicated this effectively communicated. The lack of case law further makes the determination of the status/ clarity very difficult for stakeholders. The slow process of attracting new member states to ARIPO was aired as a challenge in terms of the value proposition of the system because naturally other countries should be interested in joining the system.

iv. IP utilization and awareness within the ARIPO Member states

The level of awareness and utilization of the IP system by locals in a region is very important. This enhances the economic and business related activities that applicants are looking for and makes the exploitation and enforcement of their IP rights more effective with mutually beneficial outcomes. It is important for ARIPO to increase the impact of its activities and ensure that the IP offices also undertake these activities.

v. Enforcement related challenges

As indicated by the participants in this study, the role of enforcement cannot be over emphasized. It is the key to successful exploitation of IP titles. There is no point in protecting IP if the rights are unenforceable and thus the enforcement mechanism for ARIPO titles has to be clear and well established presenting a unique advantage over national systems. The enforcement challenges discussed also point out to the low skills and capacity of enforcement agents especially as it relates to patents. How are patent infringement cases handled in the courts of member states, how do they judge this? These were some of the questions posed by the stakeholders, the judges, lawyers, police and border authorities seem to lack this capacity. There is an urgent need to ensure that the enforcement stakeholders have the necessary skills and capacity to handle ARIPO titles.

vi. Socio-cultural issues

The advent of social media has meant that news/ opinions travel very fast. For any basic research on any area of interest one tends to use search engines to retrieve relevant information. Unfortunately most of the information retrieved on ARIPO does not paint a positive picture of the institution leaving many doubts. The key highlight from the participants was that the voice of ARIPO is not heard and there is a lack of authoritative information or position regarding the challenges and contrasting opinions. Further there are language barriers and inadequate information on the ARIPO website.

## 5. Implications and recommendations

### 5.1. Implications

The study has revealed some interesting factors that affect the utilization of the ARIPO system. These factors are by no means exhaustive, neither can they be said to be entirely new. Their significance lies in the effect they have on ARIPO as an institution and ARIPO as a regional protection system. Some of the issues raised by the applicants such as guidelines. Member states laws have been addressed by ARIPO and the study on the legal systems of the Member states underway, it is without doubt that the challenge lays in the promotion, communication and engagement strategy of the institution. Further buy in from the Member states and thus political will has to be achieved to obtain consensus in the region and build a common IP agenda for Africa. It is also very interesting that from an applicant's point of view the level of IP utilization by locals in the country is a very key factor probably due to the fact that it also leads to appreciation of IP and ultimately enforcement related benefits. The most important challenge as highlighted by the stakeholders is that with regards to enforcement and enforceability of ARIPO rights due to a plethora of issues such as domestication and lack of clarity in ARIPO protocols specifically the Banjul protocol.

The most obvious implication of the results of this study lay in the effect of the performance of the Banjul Protocol on the ARIPO system as a whole. When a company enters a new market the first line of protection in most cases is the Trademarks. In the case of ARIPO potential clients are advised not to use the system by their Lawyers and agents. They conduct their own research and they discover the widely spoken about disadvantages such as non-domestication or non-enforceability of ARIPO trademarks. This causes doubts about the system as a whole and when considering future prospects for designs and patents they want to protect in the region. The enforceability concerns impact heavily on protecting key technologies or designs for competitive advantage in the market and due to their large IP budgets they would rather use the national route instead of the ARIPO. Some companies have tried testing the ARIPO system and their experience with delays in processing and communication have led them to give up totally on the system itself and use the national route. Here and there some companies will use the system for patent protection but if the patent is for a technology that is likely to be infringed upon then the ARIPO system may not be an immediate option for the protection. This is depicted in Figure 7.

At the end of the chain we see that ARIPO has been eliminated or is used in circumstances where the technology is not that critical or maybe under development or a result of R&D efforts for the local market. It is thus important to address the issues surrounding the Banjul protocol urgently and establish a trademark unit at the office to coordinate and lead development related to the trademark system at ARIPO and Member states. The companies interviewed all expressed interest in using the ARIPO system should issues be clarified and case law made available to demonstrate the enforceability of the system.

The challenges revolve around 6 key factors as follows.

- Enforcement
- Information
- Internal issues at ARIPO and its Member states
- Utilization of the IP system in ARIPO region
- Social issues including cultural and related influences
- Legal

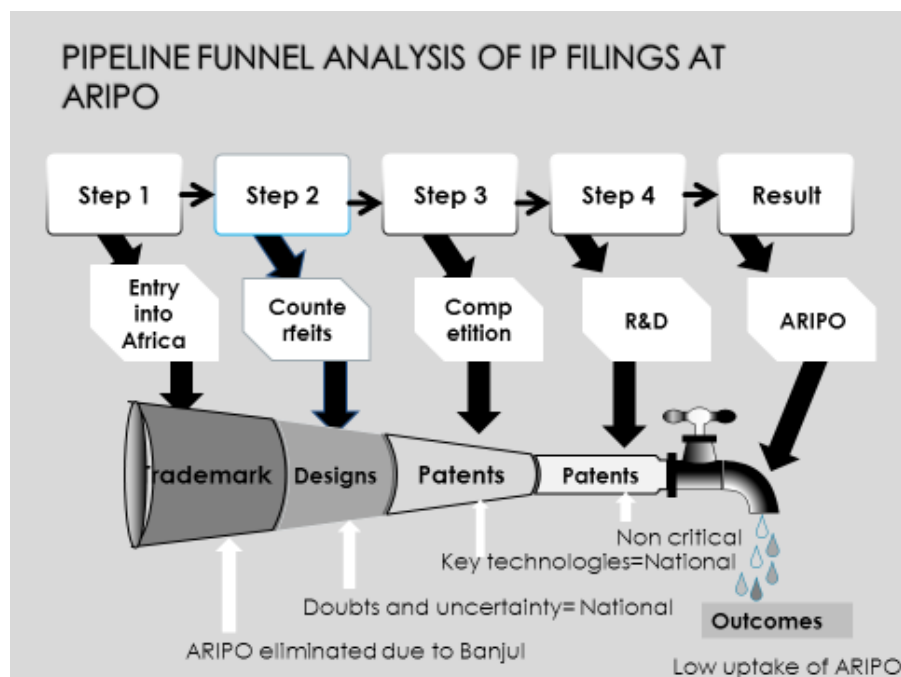


Figure 7 Pipeline Analysis

The technical capacity of the ARIPO industrial property division was questioned and interviewees asked whether ARIPO was adequately staffed to handle and examine the large volume of patents that are filed from the companies on a yearly basis. This they said was probably a cause for the delay in the processing and responding to requests or enquiry from the applicants. It is interesting to note that the same issues may hinder the local applicants as well because if the information from ARIPO is not adequate or properly packaged or available in a local language then how do they use the system? Further if these doubts have been known to the stakeholders in Japan who constitute a small percentage of the applicants at ARIPO their views or assertions must be shared by stakeholders in other applicants and stakeholders. Most importantly they may have a causal effect on the Member states themselves and affect the implementation of the ARIPO system in the Member states. These results should thus be taken in this context and the solutions and recommendations should therefore lead to the overall improvement of ARIPO for the benefit of its Member States, other countries on the continent, its clients and stakeholders.

## 5.2. Recommendations to ARIPO

The road to the increased utilization of the ARIPO system lies in addressing the key challenges of the system as highlighted above:

- Enforcement
- Information
- Internal issues at ARIPO and its Member states
- Utilization of the IP system in ARIPO region
- Social issues including cultural and related influences
- Legal

Addressing these 6 key pillars will enhance the increased utilization of the ARIPO system and ultimately develop the IP system in the continent as a whole. ARIPO has to achieve its objectives as underlined under the Lusaka agreement and also serve the needs of its Member states and its clients who are the applicants. The results of the study show that it is clear that these two roles cannot be separated, instead they are complimentary. The results and recommendations are important because they are related to the Objectives of ARIPO under the Lusaka agreement and the ARIPO value and Growth strategy. The following summarizes the key challenges, summary of findings and the proposed recommendations to address them.

Table 12 summarizes the relationship between the ARIPO objectives, the issues raised by stakeholders and the recommendations of the researcher and those proposed by some of the stakeholders. The detailed table and its implementation Framework are attached as ANNEX II. It is key to note that there were opportunities described by the participants i.e. the Yamaha, Takeda and JAPEX. JIPA indicated the need for needs assessment to take place in order for effective collaborations and ARIPO should play a key role and be the hub of such relationships. Quick wins could be obtained through match making in the WIPO green project were companies are actively seeking to collaborate or provide knowhow or solutions but the exact needs, requirements and stakeholders are not known.

In this context ARIPO will need to build its political influence through identification of the key development priority areas of the Member states and demonstrate how utilization of the IP system can help achieve those goals. This should be supported by the development of research papers, opinions, studies, success stories and above all evidence from pilot programs. ARIPO should be seen as a thought leader and an Organization that seeks to develop Member states for socio-economic development. Further many technical areas regarding the implementation of the IP system in the economic sense require skills that may be lacking in the Member states these include IP valuation, patent drafting, auditing portfolio management, securitization, licensing, commercialization technology transfer etc. It is difficult to imagine how IP can have impact when some of these skills are lacking.

The importance of enforcement cannot be over emphasized. The ultimate goal of the IP system is to grant exclusive rights. The right holder should be able to exclude others from making and copying that right without his benefit or acknowledgement. Therefore no IP system is effective without an enforcement system in the form of legislative, administrative and court mechanisms. Counterfeiting has resulted in an increased number deaths on the African continent. It is an example of an issue that IP stakeholders can work together to address the counterfeiting challenges and at the same time improve access to medicines. If ARIPO is to take leadership in such matters it would facilitate its visibility and impact in Member states and also facilitate interest by other nations who have not yet joined the institution. ARIPO can establish a unique exceptional system for counterfeiting on the continent and stimulate the key players and stakeholders to take adequate action with support from the rights holders. Regular surveys in conjunction with relevant law firms and ministries in Member states is important not only to assess the situation, but also to demonstrate the market potential and needs for different goods and brands by consumers. This is also due to the fact that some of the companies interviewed felt that there was a small market in Africa and consumers cannot afford their products, a perception of a law firm might not be entirely accurate.

The challenge of counterfeiting also indicates to a growing need of low cost substitutes which may be achieved by local manufacturing and/or refurbishment which will result in knowledge transfer, industrial development and open up hidden knowledge capabilities. Such relationships and collaborations cannot be effective without ARIPO working to increase the capability to receive this knowledge and use it meaningfully. Overall, it is important for ARIPO to have a regional IP strategy that is more integrated into the needs of the continent and differentiated from other international IP strategies that reflects the true nature, natural

resources, human capital and capabilities in the Member states for industrial development. The role of SMEs is very important to any nation; they play a key role in this system and it is important to integrate the local SMEs with those in Japan.

In trying to build consensus in IP, it is key to build the political will and buy in from key players and decision makers in the field. The first step is to identify the key priority sectors. In this case, the researcher will use Health, water and sanitation and industrial development and WIPO GREEN – The market place for sustainable technology – developed by WIPO and JIPA, as examples to demonstrate this process.

The health sector and access to medicine is a priority area for all Member states of ARIPO and all countries in the region. Takeda's strategy of providing access to medicines is very important as the company is one of the largest in Japan with well established markets, technologies, innovations in other parts of the world. As they grow their presence in Africa it is important for ARIPO to facilitate their entry where possible by matching them with relevant local stakeholders and assisting in any coordination mechanisms. This will not only build the availability of drugs in the Member states, but also build the capacity of local manufacturing companies who will work with Takeda. Further, this relationship will foster the building of IP and pharmaceutical sector on the continent which demonstrates the important role of IP in development. This component also demonstrates the use of the licensing system and commercialization of IP. Through such a project ARIPO will be able to promote the utilization of the IP system by the local pharmaceutical manufacturers. Further, Takeda opened a Center of Research Excellence in Kenya and the center and activities can help demonstrate the important role of Industry-academia relationships.

It is interesting to note that the applicants and stakeholders value the level of awareness and level of utilization of IP system in ARIPO member states. Without prescribing what this use is it is key to identify how the structure of the desired utilization for ARIPO member states is and the framework for coordination and support by ARIPO. Japan, China, India and Korea all grew their capabilities through the increased utilization of the IP system by using the technologies, modifying and learning and then emerged to develop their own innovator products. It is key that ARIPO ensures that its Member States have the technical capacity and knowhow to learn and adapt the foreign technologies. This will increase the technical capacity and lead the development of innovator technologies and increase competition and investment and above help in attainment of development goals.

### 5.3. Key areas of collaboration between ARIPO and JPO in implementing these recommendations

- Within the framework of the ARIPO JPO Partnership the following implementation matrices can be adopted
- Publish key information relevant to needs of all stakeholders
- Share and utilize results of examination in each other's office
- Study the possibilities and mechanisms of the patent prosecution highway at ARIPO
- Design and set up the quality examination monitoring system for ARIPO
- Promote and popularize the ARIPO system within Japan
- Train advanced courses in patent and trademark examination at ARIPO and its Member states
- Undertake Pilot projects to demonstrate the economic and social benefits of IP through facilitating collaboration of companies and institutions in Japan and ARIPO Member States
- Develop and coordinate system for commercialization, licensing and transfer of technology



- Host key Japan-Africa activities and meetings at ARIPO e.g. TICAD, JICA , JETRO etc. related activities
- Incorporate IP issues in Japan-Africa activities
- Establish specialized courses in key areas such as Litigation, enforcement, commercialization, licensing in the MIP programme or individual basic and advanced courses at ARIPO
- Establish programme to collect and create a database of industrial property case law in Africa

These areas of collaboration together with the details as contained in the implementation Matrix and timelines will facilitate the growth of ARIPO and development of the IP system as a whole in Africa as the impact is not restricted to ARIPO alone. A key recommendation is to do more in terms of gatherings of industry and academia and other relevant key stakeholders and have roundtable discussions to come up with recommendations and roadmaps more than the general seminars and workshops. Gathering of industry in different key sectors will not only increase the awareness and utilization of IP but also facilitate needs assessment and collaboration with international counterparts. All activities should be accompanied by monitoring and evaluation mechanisms to follow up on impact.

#### 5.4. Areas for future Research

This study has been significant in obtaining an overview on the views and experiences of utilization of the ARIPO system there are areas that also require research. These are

- Analysis of case law in industrial property systems in African countries to establish gaps, trends and baselines that can be used for developing the system
- International Technology transfer mechanisms, incentives and best practices for Africa
- The role of administrative relief system in African countries and the ARIPO Board of appeal system and how they can work together
- Analysis of counterfeiting of Asian brands in different sectors e.g. electronics, mechanics, medicines etc. and its economic impact

These areas are key in the development of the IP system as they facilitate a deeper understanding of the actual situation on the ground regarding to key IP areas such as enforcement which are the areas highlighted by the applicants and stakeholders as needing attention on the African continent.

Table 12. Recommendations to ARIPO

Challenges	Summary of key findings	Summary of recommendations
Enforcement & Legal	<ul style="list-style-type: none"> <li>- Enforceability of ARIPO titles</li> <li>- Double protection of Patents</li> <li>- Contradictory opinions from agents</li> <li>- Banjul protocol, low subscription and domestication</li> <li>- Use national route e.g. Paris / Madrid for critical technologies and trademarks</li> <li>- Different procedures in national phase of each state</li> <li>- No enforcement information/Case law</li> </ul>	<ul style="list-style-type: none"> <li>- Grant high quality rights in a timely manner this can be done with support from major IP offices e.g. JPO in using their examination results</li> <li>- Support and provide technical support to courts and enforcement agents in MS</li> <li>- Collect case law on Industrial property</li> <li>- Publish key information relevant to needs of all stakeholders</li> <li>- Offer a well serviced help desk and communication channels in a timely manner</li> <li>- Promote and popularize the ARIPO system</li> <li>- Develop and coordinate system for commercialization, licensing and transfer of technology for Member states</li> <li>- Harmonize the procedures at national offices</li> <li>- Put in place a mechanism to monitor outputs and standards of examination (formality and substantive) e.g. JPO process</li> <li>- Publish positions and opinions on key issues as ARIPO</li> </ul>
Internal	<ul style="list-style-type: none"> <li>- Member states do not abide by to the protocols</li> <li>- ARIPO value proposition and distinctiveness is not clear</li> <li>- low coordination or support to Member States with regards to enforcement</li> </ul>	<ul style="list-style-type: none"> <li>- Continuous high level engagement with Member states and other countries</li> <li>- Understand the political dynamics of countries and identify their priorities</li> <li>- Ensure that IP issues are incorporated in all continental strategies/ discussions e.g. TICAD, JETRO, JICA</li> <li>- Promote IP as a tool for development i.e. address MS key development challenges through IP</li> <li>- Identify key sectors that could be catalyzed by IP and use them as demonstration of importance of IP to Members States e.g. implement and coordinate Takeda project to identify suitable manufacturers, Yamaha to identify innovations/ innovators and WIPO green project</li> <li>- Research into administrative relief procedures in member states and the ARIPO board of appeal and see how ARIPO can assist with technical issues related to patents at the member states courts</li> </ul>

<b>Challenges</b>	<b>Summary of key findings</b>	<b>Summary of recommendations</b>
Utilization of IP in ARIPO MS	<ul style="list-style-type: none"> <li>- Low utilization in Member states</li> <li>- Low technical capacity</li> <li>- Low R&amp;D</li> <li>- Low industry and Academia collaboration</li> </ul>	<ul style="list-style-type: none"> <li>- Develop strong regional framework or strategy for IP promotion and utilization in Member states</li> <li>- Popularize IP through demonstration of success stories</li> <li>- ARIPO should Act as a matchmaker for foreign companies who want to work with local companies</li> <li>- Facilitate technology transfer</li> <li>- Develop needs assessment studies that allow for greater collaboration between industry and academia (including foreign companies)</li> <li>- Carry out pilot programs on licensing and commercialisation</li> <li>- Offer incentives i.e. reduced filing fees, awards etc for local innovators</li> </ul>
Capacity building	<ul style="list-style-type: none"> <li>- Skills of practitioners including examiners</li> <li>- Rare to find skilled agents</li> <li>- Rare and outdated information</li> <li>- Poor content in training materials in Japan</li> <li>- Rare seminars or training in Japan</li> </ul>	<ul style="list-style-type: none"> <li>- Design different programmes for different stakeholders and target key players i.e. judges</li> <li>- Increase cooperation in advanced patent examination training for ARIPO examiners</li> <li>- Increase cooperation in training of trademarks personnel at ARIPO</li> <li>- ARIPO should appoint a trademark specialist(s)</li> <li>- Focusing on the target groups of the MIP e.g. have cohorts specialized for Judges and law enforcement, scientists, entrepreneurs, business leaders</li> <li>- ARIPO should Train and accredit agents and attorneys from Member states and other African countries</li> <li>- Establish a network of Patent searchers/ examiners in research institutions who may work on contract basis for ARIPO when need arises e.g. Philippines</li> <li>- The searchers can act as support researchers for courts in Member States and other patent related issues</li> <li>- Collaborate with JPO/JETRO/JIPA etc. to incorporate training on ARIPO</li> </ul>
Information	<ul style="list-style-type: none"> <li>- Inadequate information</li> <li>- Delays in processing</li> <li>- Communication challenges</li> <li>- Advice not to use the ARIPO system</li> <li>- Website not adequate</li> </ul>	<ul style="list-style-type: none"> <li>- Upgrade the ARIPO website</li> <li>- Upload flow charts and guidelines for all procedures on the website</li> <li>- Upload all relevant information and updates from the Member States</li> <li>- Establish a fully-manned helpdesk</li> <li>- Establish quality and standards system for Formalities and Examination processes</li> <li>- Publish weekly/ monthly newsletters that are distributed widely and translated into major languages</li> </ul>

<b>Challenges</b>	<b>Summary of key findings</b>	<b>Summary of recommendations</b>
	<ul style="list-style-type: none"> <li>- Direct timely communication is lacking</li> <li>- Non-authoritative information on key issues from ARIPO</li> <li>- Flow/ process charts and timelines are not available</li> <li>- Procedures at ARIPO and at Member states not available clearly on the website</li> </ul>	<ul style="list-style-type: none"> <li>- Implement/ establish social media strategy</li> <li>- Collect data</li> </ul>

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## Appendixes

### Appendix I: IMPLEMENTATION MATRIX

Area	Key Issues for Improving the ARIPO system	Responsibilities and Possible collaboration
<b>I. Policy and legal framework</b>	<p><b>Harmonization and Domestication of ARIPO protocols</b></p> <ul style="list-style-type: none"> <li>- Critical need to domesticate and implement ARIPO Treaties by all Member States and Harmonize systems and procedures in all Member States</li> </ul> <p><b>Examination and Administrative procedures</b></p> <ul style="list-style-type: none"> <li>- Facilitate the development and improvement of examination and procedural guidelines at ARIPO and Member States for all IP titles</li> </ul> <p><b>Improve the performance of the Banjul Protocol</b></p> <ul style="list-style-type: none"> <li>- domestication of the protocol in contracting states</li> <li>- collect and publish case law related to the protocol</li> <li>-</li> <li>- training and engagement with trademark examiners, judges and agents in Member States</li> <li>- facilitate the development of trademark examination standards and guidelines for ARIPO and Member states</li> </ul>	<p>JPO and ARIPO to support Member states efforts to take decisive steps                      JIPA to assist in opinions and proposals for harmonization process</p> <p>JPO and ARIPO to support the development of guidelines in Member States                      ARIPO to publish flow charts of all procedures and timelines at the Office                      JPO to support review the ARIPO examination guidelines                      ARIPO to publish all administrative and procedural information of Member states on websites</p> <p>Member States with support of JPO and ARIPO                      ARIPO and Member States with support of JPO                      JPO and ARIPO</p> <p>ARIPO, JPO and Member States</p>

Area	Key Issues for Improving the ARIPO system	Responsibilities and Possible collaboration
	<ul style="list-style-type: none"> <li>- facilitate the development of standards for procedures related to appeal and invalidation procedures in Member States</li> <li>- conduct user awareness and training programmes</li> <li>- frequently publish newsletters, articles and related information on the trademark system at ARIPO and Member states</li> <li>- facilitate the incorporation of trademarks into the legal qualification system and institutes</li> </ul> <p><b>Clarity</b></p> <ul style="list-style-type: none"> <li>- establish an online help desk with dedicated coordinator</li> <li>- Establish FAQ's on the website</li> <li>- Publish newsletter and other related articles on the Trademark system</li> <li>- Use social media to promote the system with regular posts and news</li> </ul>	<p>JPO, ARIPO and Member States</p> <p>JPO and ARIPO ARIPO and Member States</p> <p>ARIPO and Member States with support from JPO</p> <p>ARIPO</p>
<p><b>II. Institutional framework (Administrative infrastructure)</b></p>	<p><b>Improving processes and procedures at the ARIPO office</b></p> <ul style="list-style-type: none"> <li>- Increase the number of patent and trademark staff including Formalities to increase efficiency</li> <li>- Utilize search and examination results of trusted office to reduce timelines for examination</li> <li>- Establish a pool of 100 patent search specialists at institutions of higher learning from member states</li> <li>- Establish ARIPO as the lead institution in industrial property through implementing quality process and monitoring standards</li> <li>- Establish a Communication strategy to increase the brand value of ARIPO linked to a social media strategy that full engages with stakeholders</li> </ul>	<p>ARIPO</p> <p>ARIPO and JPO</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO with support of JPO</p> <p>ARIPO</p>

Area	Key Issues for Improving the ARIPO system	Responsibilities and Possible collaboration
	<p><b>Build Consensus and Political will on IP in the region</b></p> <ul style="list-style-type: none"> <li>- Undertake political analysis, insight and understanding studies to inform engagement strategy</li> <li>- Research and establish best practices for incentivizing harmonization and domestication by MS</li> <li>- Continuous high level engagement with Member states and key influencers in Africa</li> <li>- Ensure that IP issues and ARIPO are incorporated in all continental strategies/ discussions e.g. TICAD</li> <li>- Engagement through writing papers, opinions that are targeted at the decision makers</li> <li>- Design flexible and adaptable programs that reflect detailed appreciation of, and respond to, the local context and needs</li> <li>- Design Capacity building and engagement strategy with key decision makers and influencers in Government Private sector and civil society</li> <li>- Facilitate the awarding of voluntary licenses and collaboration of local pharmaceutical industry with Takeda (Seminars, study visits baseline study)</li> <li>- Facilitate the collaboration of innovation stakeholders in the water sector with Yamaha</li> <li>- Facilitate knowledge exchange between JAPEX and relevant stakeholders in the oil and Gas industry</li> <li>- Design other pilot programmes</li> <li>- Use ARIPO facilities for programmes such as TICAD and other key events in Africa</li> <li>- Increase collaboration between ARIPO and other Japanese agencies e.g. JETRO and JICA in Africa</li> </ul>	<p>ARIPO with support of JPO, JIPA and AN ORGANIZATION OF IP ARIPO, JPO, AN ORGANIZATION OF IP, JIPA</p> <p>ARIPO</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p> <p>ARIPO, JPO and Member States</p>

Area	Key Issues for Improving the ARIPO system	Responsibilities and Possible collaboration
<p><b>III. Promotion of utilization of IP system</b></p>	<p><b>Increase IP awareness in MS</b></p> <ul style="list-style-type: none"> <li>- Develop strong regional framework or strategy for IP promotion and utilization in Member states</li> <li>- Popularize IP through demonstration of success stories</li> <li>- Act as a matchmaker for foreign companies who want to collaborate with local companies</li> <li>- Facilitate development of technology transfer framework</li> <li>- Develop needs assessment studies that allow for greater collaboration between industry and academia (including foreign companies)</li> <li>- Carry out pilot programs e.g. coordinate WIPO green activities in Member states and carry out needs assessment programmes</li> <li>- ARIPO to participate in relevant IP seminars/ meetings or training programmes in Japan e.g. JPO, JETRO, JIPA and AN ORGANIZATION OF IP activities</li> <li>- Offer incentives for locals in protecting their IP titles i.e. fee reduction for filing</li> <li>- Collect document and disseminate success stories on IP Utilization</li> <li>- Conduct motivational awareness training demonstrating success stories and processes by other local and foreign IP holders especially SMES</li> <li>- Development of relevant modules and customization of existing modules in key areas for all categories of stakeholders in the major ARIPO languages</li> <li>- Development and distribution of courses and materials on the ARIPO system in English and Japanese and other major international languages</li> </ul>	<p>JPO, JIPA and ARIPO and strategic partners  JPO, JIPA and ARIPO and strategic partners  ARIPO with support from JPO and other partners  ARIPO with support from JPO and other partners  ARIPO, JPO, AN ORGANIZATION OF IP and Member States  ARIPO, JPO, AN ORGANIZATION OF IP, WIPO Green and Member States  ARIPO, JPO, JETRO, JIPA  ARIPO and Member States  ARIPO, JPO, JIPA  ARIPO and JPO other strategic stakeholders  ARIPO, JPO, JIPA and JETRO  ARIPO, JPO, JIPA and JETRO</p>

Area	Key Issues for Improving the ARIPO system	Responsibilities and Possible collaboration
<p><b>IV. Building the enforcement system in ARIPO Member states</b></p>	<p><b>Build capacity in enforcement</b></p> <ul style="list-style-type: none"> <li>- Design different training programmes for different stakeholders and target key players i.e. judges</li> <li>- Specialization on the target groups of the MIP e.g. have cohorts specialized for Judges and law enforcement, a separate one for scientists, entrepreneurs/ innovators and business leaders</li> <li>- Design a mechanism to train and accredit agents and attorneys in IP for the region</li> <li>- Build Case law database/ repository</li> <li>- Collect data on IP case law</li> <li>- Provide incentives for collection of data e.g. sponsored MIP projects targeted at compiling case-law</li> <li>- Legal system for enforcement</li> <li>- Conduct study to assess and collect the enforcement system and mechanism in the Member States and other African countries</li> <li>- Conduct an analysis of the weaknesses and strengths of the enforcement systems</li> <li>- Promote the development and capacity building of specialized IP courts in member states</li> <li>- Promote the development of appeal boards and their mechanism of operation in the Member states (Administrative relief)</li> <li>- Improve the structure and functionality of the ARIPO Board of appeal</li> </ul>	<p>JPO, ARIPO, Member States and strategic partners</p>
<p><b>V. Building an information and</b></p>	<ul style="list-style-type: none"> <li>- Redesign the ARIPO website for ease of access and user friendliness e.g. WIPO and EPO website</li> </ul>	<p>ARIPO and strategic Partners to begin with access to quality material</p>

<b>Area</b>	<b>Key Issues for Improving the ARIPO system</b>	<b>Responsibilities and Possible collaboration</b>
<p><b>Communication strategy and increasing Brand value of ARIPO</b></p>	<ul style="list-style-type: none"> <li>- Ensure that detailed information on processes and procedures at ARIPO and at Member states are communicated in a user friendly manner e.g. flow charts/ diagrams</li> <li>- Develop a communication strategy that targets the different information needs of all stakeholders</li> <li>- Write and publish or provide technical opinions, articles, position papers, status reports and forecasting reports related to IP and key economic sectors or developments in Member States and other African Countries</li> <li>- Develop and implement social media strategy that communicates the brand value of ARIPO on social platforms such as linkedin</li> </ul>	<p>ARIPO and Member States</p>

## Appendix II: Minutes of the interview to Takeda Pharmaceutical Company

Date and Time: 2:00 – 3:00 pm, Thursday 20<sup>th</sup> July

Place: Corporate Tokyo Headquarter of Takeda Pharmaceutical Company Limited

12-10, Nihonbashi 2-chome, Chuo-ku, Tokyo, Japan

### Attendees:

Mr. Seiji Mori, Head of Operations (IP) Intellectual Property: Interviewee

Ms. Maiko Hirai, Director, Public Affairs and IP Policy, Operation (IP) Intellectual Property: Interviewee

Ms. Nobue Yokoi, Manager, Operation (IP) Intellectual Property: Interviewee

Ms. Regina Levesque, Manager, Public Affairs and IP Policy, Operations (IP) Intellectual Property: Interviewee

Ms. Rambidjay Rosemary Mlambo, Researcher

Dr. Yorimasa Suwa, Supervisor

### Contents:

Takeda Pharmaceuticals has filed for 13 Patents at ARIPO between 2014 and 2015 in the same period the company filed 336 and 297 respectively through the PCT (according to PatentScope). In total Japan has filed 414 patents compared to 2,673. There are no other types of IP titles directly from Takeda according to the database.

### ***Basis questions on Takeda's IP strategy:***

1. *How important is the protection of IP titles in Africa and or ARIPO for Takeda?*

IP is very important to Takeda but with the current developments in Africa on access to medicines. Takeda has made a position not to file or not to enforce patents in LDCs. Although patents are very important to enhance innovation but with aim to accelerate patient access, we set forth the aforesaid position. although we believe that patents are not a barrier to access to medicines so this is a clear stance from Takeda.

2. *In your perspective how important is IP protection in Africa by other pharmaceutical companies in Japan and what would you say is their general level of awareness of IP systems in Africa?*

Important Africa is very far away from Japan. African continent is the last place Japanese companies will enter. The level of awareness of the African IP system is very low compared to other regions.

3. *What factors determine the protection strategy in Africa and at ARIPO?*

The factors that affect the Takeda protection strategy include, generally the company's business plan, access to medicine related issues, the company's mission is to deliver the drug to patients anywhere in the world. The new AA Law FirmP position published on June 20 2017 was as a result of this mission and the fact that although IP and specifically patents is very important for development, innovation and invention and creation of innovative drugs. In LDCs and LICs Takeda will either not file or not enforce patents, the company supports voluntary licenses and non-assertion declarations or clauses where



necessary and offer under probate terms licenses to manufacturers who can provide low cost access to Takeda medicines. Make patent information available upon request to the public. Sales also affect the protection strategy so where there is a larger market then IP will be protected for example the largest markets are US, Europe and Japan. Takeda only entered the African market after acquiring Nycomed that had a more global footprint so the company has just began to expand.

Why we don't file so many patents at ARIPO, the major markets are Japan Us and Europe, sales in Middle East and Africa accounts for 29,5bn (2%), the basic principle is that where we have a market and business we file patents because filing patents are an investment. In 2011 Takeda acquired Nycomed who have a footprint in Latin America, Australia and Africa, that's why filings in these areas are still relatively insignificant.

4. *What are your most used IP titles in Africa i.e. trademarks / patents, which are the most effective in the region?*

The company utilizes mostly Trademarks in the region but there has been no chance to enforce so there cannot be a determination of effectiveness.

**Research Question 1: What extent are ARIPO and its system known to Japanese stakeholders?**

1. *How do you keep yourself updated about developments in the Region and what kind of advisory services do you use to get information that informs protection decisions in Africa and at ARIPO?*

Outside counsel domestic and global associations.

2. *The Patent filed started in 2014, is there any particular reason why Takeda started to use the ARIPO system do recently (ARIPO has been in existence for 40 years)?*

Takeda's global footprint expanded after acquiring Nycomed in 2011. Takeda started to file in ARIPO based on the business/filing strategies that were in force at that time.

3. *Would you say ARIPO provides adequate information on its system/ Member states and updates or new developments?*

More information on prosecution steps/ flow and enforcement would be helpful.

**Research Question 2: What are the issues in ARIPOs IP system from the perspective of Japanese Stakeholders?**

1. *Takeda Pharmaceuticals has protected IP titles at ARIPO, have there been any challenges with the use of the ARIPO system?*

Since Takeda has more experience in trademark after attending the seminars of African trademark law there is always advice that it is not safe to use ARIPO because some of the MS do not ratify the agreement only 2 countries have domesticated, so the efficacy of the ARIPO trademarks is not secured so to avoid the dispute at the courts it is safer to use the

national route. Most of the ARIPO member states are party to the Madrid system so we use that system.

There hasn't been enough experience with ARIPO except the lack of information highlighted above.

2. *Takeda has only filed patents directly at ARIPO is this so? If yes how does Takeda protect other IP titles in the ARIPO region?*

Takeda was advised not to use the ARIPO system due to efficacy of ARIPO trademark so there is use of the national route through the Madrid system.

3. *Regional/ national phase entry requires a local representation, have there been any challenges for your company in the ARIPO region and Africa in general?*

We pay relatively higher attorney costs, no direct contact with any African law firms so we connect via for example UK based law-firms. So the cost to file in Africa doubles. We did not mean ARIPO cost is high, rather, we think the ARIPO official patent filing fee is relatively inexpensive.

4. *Most foreign applications are filed through the PCT and or Hague and or Madrid, what are the challenges of national phase entry of these rights in Africa and at ARIPO?*

Some of the countries have not adjusted their national law to comply with all these agreements. Non ratification of laws.

5. *ARIPO is a non-unitary system and the Member states retain a certain level of sovereignty, what are the challenges of this type of system for companies such as yours?*

There is concern over the efficacy of the registered rights under ARIPO system and the different examination results may vary from country to country and outcomes in each member state.

6. *Are there any recommendations that you may have for the improvement or the development of the ARIPO system?*

It is important that ARIPO demonstrates clearly the difference with other protection mechanisms and its advantages and this type of information would help in creating a clear picture which will allow informed decision making and strategy. To see clear benefits we may positively consider utilizing the system.

***Research Question 3: What are the issues in utilizing IP for expanding Japanese businesses in Africa?***

1. *The pharmaceutical industry utilizes various strategies to extend the term of protection of a patent, how do these strategies fare on the African continent and what have are your company's experiences? Would you consider the ARIPO system to be conducive to the needs of the pharmaceutical industry?*

Very little experience, Takeda has not developed/ executed any such strategy in Africa because of the policy of not protecting patents in the continent to contribute to Access to Medicines.

2. *Have been the challenges in management and enforcement of rights in Africa and specifically the ARIPO region, e.g. legal provisions and administration of legislation (including office procedures, timelines and costs)?*

The greatest challenges is the non-domestication of international treaties. When entering a new market Takeda evaluates the Patent system in that country and also look at the enforcement system and whether it works. A good and sophisticated legal system is a motivation for entering a market for Takeda.

3. *13 of ARIPO's Member states are classified as LDCs, Takeda Pharmaceuticals has developed an IP policy in LDCs and its main focus has been to not protect and enforce IP in LDCs, how did this strategy come about and what are the current issues with regards to protection of IP and pharmaceuticals in LDCs?*

For Takeda our policy is that we need to deliver a drug to the patient and Patent should not be barrier to access to medicine. We believe that such non-filing or non-enforcement in LDC will contribute to acceleration of patients access to medicine.

4. *ARIPO recently adopted the Swakopmund protocol on protection of Traditional knowledge and folklore in an effort to increase access to and commercialization of Traditional Medicines, what is Takeda's position on the issue of protection and use of TK in its products and processes?*

We respect traditional knowledge. There is currently no policy on TK. The company has an internal policy on CBD (i.e. genetic resources) Japan this year recently adopted a protocol relating to CBD and the company has to comply with these issues including access and benefit sharing.

***Research Question 4: What are the important governmental supports for Japanese stakeholders in utilizing the foreign IP protection systems?***

1. *The Japanese government through various institutions work closely with stakeholders such as ARIPO, do you believe there is adequate dissemination of information from these departments on the actual situation and procedures for IP protection and other related developments in Africa?*

There is no adequate information, when you look at the information available on japan based websites is old and outdated.

2. *Would you say that there is adequate education, training and awareness on African related issues for example IP system and other issues in Japan?*

So far as we know, there is no adequate training and programs on African legal system and practices.

***Overall questions on the IP issues of Japanese pharmaceutical industry:***

1. *The number of patents filed by Japan are very low compared to the US, Europe, Republic of Korea and China more so in the field of pharmaceuticals which has the highest number of filings at ARIPO, how would you say the Japanese industry is interested or knowledgeable about the African continents, its current status, growth trajectory and potential?*

Takeda has just started activities in Africa hence experience. There are future prospects for growth. Takeda actively participates in the Tokyo international Convention for African Development (TICAD) our Board member attended with the Prime Minister, we advertised our activities on access to medicines. Japan has a growing interest in Africa and is investing more in Africa so Takeda follows such government policy.

2. *The African continent has become a hub of fake products and counterfeits (a multi-million dollar industry now) and more so in the pharmaceutical sector and this is further worsened by the fact that most patents are not protected on the continent and no enforcement takes place. What is your view of this issue and what is your company's strategy given that there are few IP titles protected in the region?*

This has not yet happened to Takeda in Africa we have experienced this seen in South East Asia. Under the Takeda access to medicines strategy in sub Saharan Africa last year there is going to be an increase in Takeda products distributed in the region and this may increase the possibility of counterfeits. There will likely be an increase in the parallel importations which may be a problem for Takeda. The company is aware the risk and will enter the sub-saharan market.

3. *Takeda is establishing a research center in Kenya. What in your perspective would you say can lead to increased collaborative activities between Japan pharmaceutical industry and counterparts in Africa especially with regards to capacity development and technology transfer? What are Takeda's future plans especially with the African local pharmaceutical industry which is in need of assistance?*

There will be increased collaborative activity in Africa. The Center of Excellence was launched at the last TICAD meeting, training programme for African oncologist and fellowship programme and exchange programmes between Takeda researchers and African. Takeda is prepared to offer licenses to local manufacturers in Africa for low cost manufacturing of products. Takeda has been involved in capacity development through fellowship programs, education and training programmes and also in provide Takeda's asset for research and development of neglected tropical diseases as for example a part of the WIPO research platform.

We don't know anything about African local pharmaceutical manufactures and we are prepared to offer licenses for local manufacturers for low cost manufacturing. Our approach is beyond the medicine because just providing the drugs so this included infrastructure development, scientific equipment access program and training, tech transfer.

R&D we do collaboration with not only but also African researchers for R&D of neglected tropical diseases drugs, for example, by providing compounds for screening, and R&D expertise.

***Other Comments:***

- Most multinationals use National route to protect trademarks
- Trademarks Uganda Mozambique Malawi and Sudan do not respect the ARIPO treaty,
- Kenya most major companies use both ARIPO and national route for patents i.e secondary filing,
- Concern it's the legal and legislative power and the political buy-in from Member states is low,
- *ARIPO database Toyota, Panasonic, Sony no Trademarks filed at ARIPO by big Japanese companies,*
- *There used to be Only 2 products registered in Africa.*

[End of document]



### Appendix III: Minutes of the interview to JAPEX

Date and Time: 2:00 – 3:00 pm, Thursday 20<sup>th</sup> July

Place: Corporate Tokyo Headquarter of Takeda Pharmaceutical Company Limited  
12-10, Nihonbashi 2-chome, Chuo-ku, Tokyo, Japan

Attendees:

Mr. Ichiro Hishioka, Manager of IP Group, JAPEX: Interviewee

Ms. Rambidjay Rosemary Mlambo, Researcher

Dr. Yorimasa Suwa, Supervisor

Ms. Haruko Nishikawa, Interpreter

*Basis questions on JAPEX's IP strategy.*

1. *To what extent is IP protection in Africa important to JAPEX and the Japanese oil and gas industry in general?*

Not so important in general, I guess.

2. *JAPEX has filed 26 patents at ARIPO all designating Tanzania and Mozambique, how would you describe your company's Strategy at ARIPO?*

JAPEX joins the JAPAN-GTL technology research consortium, which consist of 7 Japanese companies. Tanzania and Mozambique are included its patent portfolio, as natural gas producing countries.

3. *Is patent the only IP form protected by your company in the ARIPO region, or do you use other forms such as trademarks and industrial designs as well?*

JAPEX's case is former.

4. *What is JAPEX's overarching Intellectual property strategy for patents, trademarks, and industrial designs in Africa? How does it compare for the ARIPO region?*

JAPEX has no IP strategy in Africa, except for describing above (Q2) .

*Research Question 1: What extent are ARIPO and its system known to Japanese stakeholders?*

1. *How do you keep yourself updated about developments in the ARIPO region and what kind of advisory services do you use to get information that informs protection decisions in Africa and at ARIPO?*

Almost none.

2. *What are the drivers for your use of the ARIPO regional system? And what would you consider to be the reasons that you would not enter into a regional phase at ARIPO?*

3. *Would you say that information is readily available on ARIPO and what resources or sources of information do you use to obtain such information?*

*Research Question 2: What are the issues in ARIPOs IP system from the perspective of Japanese Stakeholders?*

1. *What are the key issues that you consider important when entering the regional phase at ARIPO or similar jurisdictions in Africa during the PCT phase of application?*

Execution or not is the key, I think.

2. *Entering the national or regional phase can be a complex process especially in developing countries what are some of the challenges you have faced?*

Not at all. Our company usually uses the patent attorney offices for PCT application.

3. *Regional/ national phase entry requires a local representation, have there been any challenges for your company specifically in the ARIPO region and then Africa in general?*

No.

4. *What are the challenges faced after protecting IP titles at ARIPO or similar regions? We have never faced any challenge.*

5. *ARIPO is a non-unitary protection system what in your view are the challenges for companies such as yours?*

Unitary protection system like GCC and Eurasia is favorable for JAPEX, concerning ARIPO, I think.

6. *Would you say there is clarity in terms of how ARIPO relates to its member states and communicates with applicants?*

7. *IP rights are territorial and national phase/regional phase entry presents various scenarios in terms of legal administrative and enforcement issues, what issues related to these would you consider important? If you have any challenges with such issues?*

Most important issue is for which office we should ask for enforcement, I think.

8. *Are there any suggestions that you could make on the improvement of the ARIPO system?*

*Research Question 3: What are the issues in utilizing IP for expanding Japanese businesses in Africa?*

1. *How would you describe the African market for JAPEX and in your perspective what are the critical issues that affect your business in entering and operating in the African market and how does IP intermix with these factors?*

JAPEX has possibility to explore oil & gas in Africa region. And for this, IP protection (especially patents) is possible to be needed.

2. *How does the competitive landscape influence the level of activities in Africa by Japanese companies, given that at the moment just by observing the filing statistics at ARIPO the bulk of filings come from the US and Europe?*

*Research Question 4: What are the important governmental supports for Japanese stakeholders in utilizing the foreign IP protection systems?*

1. *The Japanese government through various institutions work closely with stakeholders such as ARIPO, do you believe there is adequate dissemination of information from these departments on the actual situation and procedures for IP protection and other related developments in Africa?*

I think the Japanese government and ARIPO collaborate well.

2. *Would you say that there is adequate education, training and awareness on African related issues for example IP system and other issues in Japan? I think education etc. on Africa is not enough in Japan.*

*Overall questions on the IP issues of Japanese Oil industry:*

1. *What would you say is the Japanese industry strategy for Africa given the growth taking place on the continent? Do they have the information and capacity to increase or expand their activities in/ into Africa?*

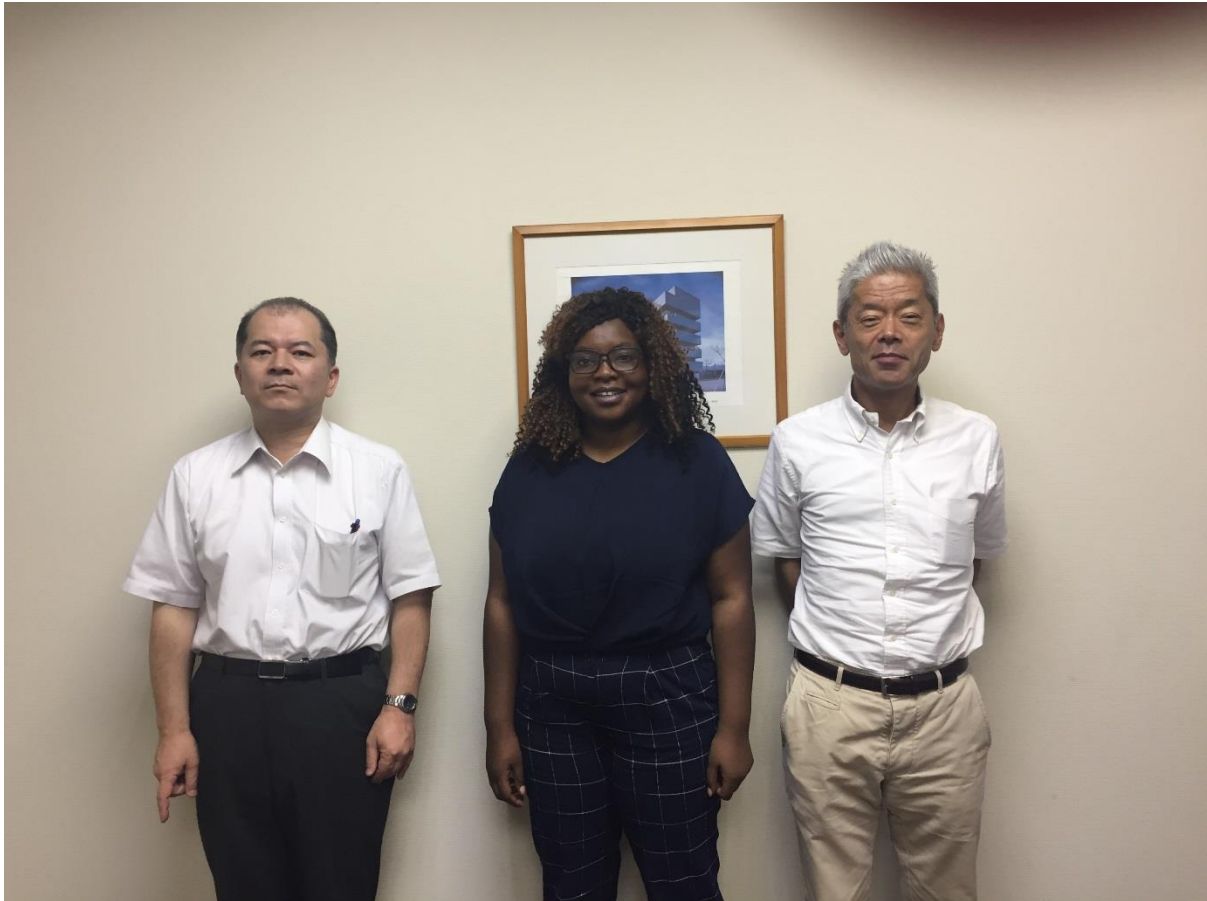
Not enough capacity, I think. Japanese oil industries are relatively small compared to Majors.

2. *The oil and gas industry is susceptible to a lot of attention due to the need for environmentally friendly technology and practices, and there is an increasing demand for new innovations in this field especially for developing countries, what is the current status of these issues in your industry and what efforts are you making to collaboratively these innovations with and/or transferring them to relevant stakeholders in Africa?*

For example, water treatment, CCS (Carbon dioxide Capture and Storage), slim-hole drilling, ...

[End of document]





#### Appendix IV: Minutes of the interview to Yamaha Motor Corporation

Date and Time: 2:00 – 3:45 pm, Thursday 24<sup>th</sup> August 2017

Place: APIC Lecture Room 1

4-2, Kasumigaseki 3-chome, Chiyoda-ku, Tokyo, Japan

Attendees:

Mr. Shigehiro Kondo, Group Manager, Intellectual Property Group, Legal & Intellectual Property Division

Mr. Masaki Kanemaru, Supervisor, Clean Water Project Group, Area Marketing Division, Overseas Market Development Operation Business Unit

YAMAHA MOTOR CO., LTD.

Ms. Rambidjay Rosemary Mlambo, Researcher

Dr. Yorimasa Suwa, Supervisor

Ms. Junko Nakamura, Interpreter

Yamaha Motor Corporation has been named the one of the leading top 100 innovator company in the world by Thomson routers. This is mainly due to success, globalization and influence. One of the major attributes has been due to its patenting activities and IP portfolio with a goal of establishing and strengthening a global IP portfolio. Yamaha has protected its IP titles at ARIPO with a total of 48 titles including 4 industrial designs since 2009.

#### *Basis Questions for Yamaha Motor Corporation*

1. *What is the basis of the Yamaha globalization strategy? How does it increase the performance of the company and its brand?*

The vision of the company is to be “Kando” creating company which is an expression of our desire to offer our customers around the world products and services that bring joy and unexpected exhilaration of the kind that enriches their lives with new fulfillment. This means that the company is always seeking and implementing an excellent engineering, manufacturing and marketing enterprise with a prominent presence in the global market.

2. *Yamaha is a truly global company what have been the drivers for going global for Yamaha and especially in Africa where most Japanese companies are reluctant to enter?*

Yamaha always listen to the voices of the customers in each market and builds and supplies products that fit the realities of specific markets, because we know that each product has to be authentic and we have to offer it at a price that represents real value for the customers in their market. As Yamaha Motor in the vision for year 2020, has a focus on business in the emerging markets as the primary growth driver.

#### *Research Question 1: What extent are ARIPO and its system known to Japanese Stakeholders?*

1. *How do you keep yourself updated about developments in the Region and what kind of advisory services do you use to get information that informs protection decisions in Africa and at ARIPO?*

This is done through patent agents and attorneys. Some ARIPO patent agents visit Japan and host seminars which the company attends. The company frequently visits the ARIPO website for information and updates.

2. *Yamaha has business operations in the ARIPO region and has used the ARIPO system to protect some of its IP titles, what were the drivers for utilizing the ARIPO system?*

Reduced costs and simpler procedures when using the regional route in contrast to the national route are a key driver for utilization of the ARIPO route.

3. *Yamaha has protected its titles using Patents and Industrial designs is there any particular reasons why trademarks have not been protected using the ARIPO system?*

Yamaha protects its trademarks directly through national route filing in Africa. The cause for nonuse of the ARIPO Banjul Protocol is the low membership and the lack of domestication of the Protocol. There are concerns regarding whether Trademarks registered under the Banjul Protocol will be enforceable more information on this would be required.

4. *Would you say ARIPO provides adequate information on its system/ Member states and updates or new developments?*

There is an expectation for more information from ARIPO. The company receives contradictory opinions from different Attorneys / agents hence there is an urgent need for ARIPO to clarify issues and provide more information to stakeholders because using the regional route would be more convenient.

*Research Question 2: What are the issues in ARIPOs IP system from the perspective of Japanese Stakeholders?*

1. *Yamaha has protected IP titles at ARIPO, have there been any challenges with the use of the ARIPO system?*

As highlighted above there are challenges with regards to information and this is confusing. It would be helpful to be able to communicate directly with someone at ARIPO. This would help us build more confidence in the ARIPO system. Information with Issues regards to enforcement in the region are also very important for the company. We have concerns on whether ARIPO is an effective system. One organization would be preferable on the African continent.

2. *Regional/ national phase entry requires a local representation, have there been any challenges for your company in the ARIPO region and Africa in general?*

There have been no challenges to except for the contrasting opinions from different agents regarding effectiveness of the ARIPO system Information on Precedence and Case law would be very important.

3. *Most foreign applications are filed through the PCT and or Hague and or Madrid, what are the challenges of national phase entry of these rights in Africa and at ARIPO?*

The company does not use the Madrid system in Africa, instead it utilizes the Paris route. PCT entry there are no challenges, the Paris route is also used.

4. *ARIPO is a non-unitary system and the Member states retain a certain level of sovereignty, what are the challenges of this type of system for companies such as yours?*

So far there are no challenges but we foresee some problems with regards to enforcement.

5. *Are there any recommendations that you may have for the improvement or the development of the ARIPO system?*

We would like to see ARIPO increasing its Membership. We would also like to see an increase in skills development of examiners so that we can be confident of obtaining rights in the ARIPO region. An online patent database should be made available may be similar to patentscope

*Research Question 3: What are the issues in utilizing IP for expanding Japanese businesses in Africa?*

1. *Yamaha has established the overseas market development operation (OMODO) for its international cooperation activities, what led to the establishment of this strategy and what has been its impact on the overall business performance of the company?*

OMODO was established 20 years ago and covers marine and automobiles. It covers all product lines for developing countries. There are distributors who handle marketing and after sale services. There are 100 staff members of OMODO they visit countries and monitor activities on the ground and hence we are able to protect the Yamaha Brand.

2. *Some of the activities of the ODOMO include designing marketing activities based on the local political, socio-economic environment, culture, and lifestyle factors, what led to this strategy and how has it evolved and what are some of the experiences and lessons in Africa?*

Educational level tribe systems have a really good communication. We have found some really good partners and built strong relationships.

3. *What products have been most successful in Africa and have your experiences led to increased innovation on products?*

The FRP fishing boats which allow local fishers to go further in the sea than they could with their normal boats and the motors. In some country, the company does not only provide fishing boats but also train and provide information on fishing Octopus and how to process them. We also support research in this area and several publications have been made in this area. The company not only sales the product but also supports development of the system. And this has resulted in the company realizing 100% profits.

The company also has clean water projects in Africa where there is CSR and business running alongside each other.

4. *What have been some of the challenges of conducting Business in Africa and more specifically the ARIPO region?*

Unrest and related issues including public safety for example the company has delayed implementation of a project in some country.

5. *How would you propose that ARIPO can assist international businesses in the region?*

We also work in villages and we would like to obtain information on how to build relationships and collaborate with them. The company is also establishing a new plant in Nigeria with a new strategy for Caravans.

6. *The motor industry in Africa is facing a high influx of counterfeit spare parts from China causing confusion and tarnishing of brands what have been your strategies to mitigate the influx of counterfeits and have you tried to enforce your rights regards to counterfeits?*

We depend on local distributors or people stationed in the country or OMODO members. Counterfeits are a big issue for the company. The challenge is that the counterfeit components are sold separately and then reassembled at the destination so they are very difficult to track.

*Research Question 4: What are the important governmental supports for Japanese stakeholders in utilizing the foreign IP protection systems?*

1. *The Japanese government through various institutions work closely with stakeholders such as ARIPO, do you believe there is adequate dissemination of information from these departments on the actual situation and procedures for IP protection and other related developments in Africa?*

There is inadequate information. If possible more information is required to understand IP protection in the ARIPO region including Trademarks to get very stable rights. Business support and related information is also very critical so that the company can be confident in doing business in Africa. The issue of counterfeits is very worrying and only a stable IP system can help resolve these challenges.

2. *Would you say that there is adequate education, training and awareness on African related issues for example IP system and other issues in Japan?*

Currently there are no such training programs that we are aware of. JETRO does conduct such trainings but there is a general lack of information on Africa compared to other countries.

(End of document)

## Appendix V: Minutes of the Interview to a chemical company

Date and time: 4 p.m. to 5 p.m., Tuesday 8th August 2017

Place: Tokyo Head Office

Interviewees: Three staff of Intellectual Property Department

### Questions and Answers

*According to a Mckinsey global institute (2010) the GDP of Africa was 1.6 trillion in 2008 and is expected to rise to 2,6 trillion by 2020. Africa's combined consumer spending was 860 billion in 2008 and expected to rise to 1.4 trillion in 2020. Africa also has 60% of world's total amount of uncultivated arable land. In 2040 Africa is expected to have 1.1 billion people of working age.*

### *Basis Questions*

1. *How important is protection of IP in your company?*

Business and research cannot do away with IP protection since it is an essential system to support and protect our business from Competition by securing fruits resulted from our research and investment.

2. *What is your company's overall IP protection strategy and how does it match your business strategy?*

We are a comprehensive chemical company with 5 business sectors. Our Business Locations around the world. Each business sector has its own IP strategy

IT related chemicals many US patents

Health and Crop science sector is expanding globally many filings for many countries, both developing and a developed countries are filed for this sector.

In the African area the health and crop science Sector e.g. insecticides and other related agricultural chemicals. Mosquito net is a unique product for us in Africa.

We decide whether we should file a patent application or keep an invention as know-how in consideration of business strategy.

3. *What factors determine where you file for IP protection?*

Size and growth of market or economy of the countries or regions.

4. *Do you conduct business outside of Japan? If yes where and do you protect your IP in that/ those countries?*

Yes we do business outside Japan. We protect our IP across more than 20 countries. We have 3 affiliates in Africa. These all belong to the Health and crop sciences Sector. Mosquito net supported by WHO and is made in Tanzania, WHO expand the product to other regions in Africa.

5. *Do you have any past current or future business activities in Africa?*

Yes we have both activities

6. *How do you get information of how to protect your IP /or conduct business outside Japan and also specifically in Africa?*

Yes we get information from Patent Law firms in and outside Japan, JPO, AN ORGANIZATION OF IP and WIPO.

*Research Question 1: What extent are ARIPO and its IP system known to Japanese stakeholders?*

1. *Before this meeting did you know anything about the African Regional Intellectual Property Organization (ARIPO)? If yes what do you know about ARIPO?*

Yes we did, we often visit the website of ARIPO and Member states thereof, and procedures of patent prosecution. We have filed 19 patents filed at ARIPO.

2. *If yes what do you know about ARIPO and have you ever filed for IP protection using ARIPO?*

Yes we have filed Patent Applications with ARIPO.

*Research Question 2: What are the issues in ARIPOs IP system from the perspective of Japanese stakeholders?*

1. *What are the issues that you perceive to cause problems after protection of IP titles outside Japan (e.g. enforcement, delays in processing, communication challenges, finding a local agent or any other)?*

In our view, enforcement, delays in processing and communication challenges are major problems.

2. *Have you ever filed for international protection using PCT/Hague/ Madrid system? If yes what challenges have you faced in national phase entry including enforcement where applicable.*

Yes we have filed international protection through PCT and Madrid System

3. *Would you say ARIPO provides adequate information on its system/ Member states and updates or new developments?*

We often visit the ARIPO website and feel we could obtain more information.

*Research Question 3: What are the issues in utilizing IP for expanding Japanese businesses in Africa?*

1. *The African continent has become a hub of fake products and counterfeits (a multi-million dollar industry now) and this is further worsened by the fact that most patents and / trademarks/ designs are not protected on the continent and no enforcement takes place. What*

*is your view of this issue and what is your company's strategy for doing business in Africa and these IP issues?*

*Unfortunately we share the view as to enforcement in the continent. Since patent has a 20 year term, future improvement of IP environment cannot be ignored.*

2. *The number of patents filed by Japan are very low compared to the US, Europe, Republic of Korea and China at ARIPO, how would you say the Japanese industry is interested or knowledgeable about the African continent, its current status, growth trajectory and potential?*

The African continent is very far from Japan. But the industry is of course interested in the continent as an emerging region that may surpass BRICS in the future

3. *Have there been the challenges in management and enforcement of rights in Africa and specifically the ARIPO region, e.g. legal provisions and administration of legislation (including office procedures, timelines and costs)?*

We wonder if Patent obtained for Tanzania through ARIPO is effective not only in Tanganyika but also in Zanzibar. For this question a definite answer was not obtained from our associates.

*Research Question 4: What are the important governmental supports for Japanese stakeholders in utilizing ARIPO system?*

1. *The Japanese government through various institutions work closely with stakeholders such as ARIPO, do you believe there is adequate dissemination of information from these departments on the actual situation and procedures for IP protection and other related developments in Africa?*

Yes we believe so.

2. *Would you say that there is adequate education, training and awareness on African related issues for example IP system and other issues in Japan?*

We only rarely find such occasions to get education, training and awareness on IP systems focused on Africa.

[End of document]



## Appendix VI: Minutes of the Interview to Honda Motors

Date and Time: 2:00 – 3:00 pm, Wednesday 6<sup>th</sup> September 2017

Place: Head Office of Honda Motors Co., Ltd.

2-1-1, Minami-Aoyama, Minato-ku, Tokyo 107-8556, Japan

### Attendees:

Mr. Takio Fukumoto, Department Manager

Mr. Yoshiro Hirashima, Assistant Manager

Strategy Planning Department, Motorcycle and Power Product Intellectual Property Division, Intellectual Property and Standardization Unit, Honda Motors Co., Ltd.

Ms. Rambidjay Rosemary Mlambo, Researcher

Dr. Yorimasa Suwa, Supervisor

Ms. Junko Nakamura, Interpreter

### *Basis Questions*

1. *The founding fathers of Honda set out some basic principles for Honda which were to nurture and promote each person's characteristics by respecting individual differences and trusting each other as equal partners. How has this shaped Hondas Global strategy especially with regards to Africa?*

We refrain from answering questions about Honda's global strategy and policies.

2. *Honda applies the "Sangen" concept to its product development how has this concept and led to increased sale of the Honda Odyssey in China in 2005 and the increased sale of Scooters in Thailand in 2004. How has this concept fared in Africa and what are some of the lessons from Africa when compared to other developing countries?*

We refrain from answering questions about how past experiences have led to development in Africa. However, we conducted development in Africa which met local needs, as we did in other areas, and carried out local knockdown production as well.

3. *Intellectual property has proven to be a key business strategy for Honda including numerous anti-counterfeiting activities, what is Hondas IP strategy in Africa?*

We believe that responding to counterfeit goods will be one of the major IP strategies for a market like Africa that will grow in the future. For this reason, our strategy will be to properly secure intellectual property rights of basic technology.

### *Research Question 1: What extent are ARIPO and its system known to Japanese Stakeholders?*

1. *Honda has protected some of its IP titles in the ARIPO office, but the numbers are relatively low, is there any particular reason why this is so?*

The number of ARIPO applications is low because there are few applicant countries for Honda's needs among the member states.

2. *The IP titles filed started in 2013, is this correct? If yes what was the driver for utilizing the ARIPO system then?*

We used it for applications in Kenya as a trial.

3. *The IP titles filed at ARIPO by Honda show a very selective model which is different from other multinationals who usually designate all countries, what are the drivers for the selection of Member States*

Because there is not a significant amount of business in the member states other than Kenya, the possibility of utilization of rights is low.

4. *Honda has protected Patents and Industrial designs only at ARIPO is there a particular reason why trademarks have not been protected through the ARIPO office?*

Since the provisions of the Banjul Protocol do not conform to domestic laws, it is impossible to obtain the validity of trademark rights via ARIPO

5. *Would you say there is adequate information on ARIPO its system/ Member states for the purposes of seeking IP protection?*

There is a small amount of information.

6. *How do you keep yourself updated about developments in the Region and what kind of advisory services do you use to get information that informs protection decisions in Africa and at ARIPO?*

We obtain information from a local agent or a Japanese agent.

*Research Question 2: What are the issues in ARIPOs IP system from the perspective of Japanese Stakeholders?*

1. *Have there been any challenges perceived and actual in the utilization of the ARIPO system for Honda? If yes what have these been?*

We have trouble getting information and using the local representative.

2. *Using a regional protection mechanism often has many benefits over national route filing, which is the preferable route for Honda and why?*

We don't have a preference for either, the point is the balance between the coverage of a wide application area and the applicant countries.

3. *Regional/ national phase entry requires a local representation, have there been any challenges for your company in the ARIPO region and Africa in general?*

There are no significant issues for Honda with respect to domestic transition and applications.

4. *ARIPO is a non-unitary system and the Member states retain a certain level of sovereignty, what are the challenges of this type of system for companies such as yours?*

At this point we don't feel there are any challenges regarding this system.

5. *In which country/ countries in Africa has Honda protected its IP titles the most and what is the protection strategy in these countries for the different IP titles i.e. trademarks, Patents and Industrial designs?*

We have made applications in South Africa, Nigeria, and Kenya where the market is large.

6. *What have been the challenges faced in IP protection, management and enforcement in Africa for Honda?*

Lack of information on national systems when exercising rights in each country.

7. *Are there any recommendations that you may have for the improvement or the development of the ARIPO system to improve its visibility and utilization?*

We think that it is most important to increase the number of member states. If possible, it will be easier to use if there are uniform patents throughout Africa. Also, the application documents etc. should be in accordance with EP and PCT, etc.

*Research Question 3: What are the issues in utilizing IP for expanding Japanese businesses in Africa?*

*There are general talked about problems with specific brands and or models of vehicles both that result in low uptake on the used car market which may or may not be true. Others are general notions that if one has more money they should purchase a German car and at the lower end for durability a Toyota which may or may not be true but because of lack of awareness some buyers follow these general rules. Research has shown that the middle class in Africa is growing and so is consumer spending and there will probably growth in the buying of brand new vehicles in the near future and choices will most likely be determined by the used car experience or information. In terms of IPRs due to the huge influx of used vehicles on the African market there has also been a rise of counterfeit spare part and accessories. The market has confusion on how to decide when one part is genuine or not and this has caused issues with regards to certain brands of vehicles. Further for some models the spare parts are no longer in production so leaving the consumer with no option but to buy the counterfeit.*

1. *How important is the African Market to Honda?*

We think it is important and that it will be an expanding market in the future.

2. *The used car market has grown rapidly in Africa and continues to grow due to the growth of the medium income population, what does this mean for Honda and its business strategy in Africa?*

Usually we prefer that sales of new cars increase, however, we think that there are business opportunities if the brand value of Japanese cars rises and the market expands, even if that is for used cars.

3. *Innovation, Research and development has been a key success driver for Honda, are there any R&D efforts geared at recycling or improving the usage of Hondas used vehicles especially with regards to spare parts and accessories?*

*We carry out development for repair technology and accessory parts at a certain level when manufacturing new cars.*

4. *Brand value is very important and the increased influx of used cars means that there are reputational issues that come into play and affect the attractiveness of a brand, has Honda been monitoring its brand in the regions like Africa where there is increased usage of vehicles and if yes what are some of the results and what is the strategy to mitigate these?*

We are monitoring this, but don't particularly have an answer as an IP division.

5. *Some of the key drivers for choosing specific international; brands and purchasing them in Africa including used vehicles and used parts/ accessories industry has been the internet. There are very few marketing and advertising campaigns in most African countries by multinationals. The increased mobile penetration which is now over 100% in some countries in Africa, making ecommerce, social media, mobile technology and internet an important tool for any business in Africa, how has Honda aligned its business model to suit this growing trend and how will the strategy evolve?*

Honda also uses the Internet to promote its products.

6. *What have been some of the challenges of conducting Business in Africa and more specifically the ARIPO region?*

In terms of intellectual property, the challenge is the effectiveness of intellectual property litigation and the exercise of rights, and the stability of intellectual property.

7. *How would you propose that ARIPO can assist international businesses in the region?*

Stability of the right of application via ARIPO and ensuring ease of exercise of rights.

8. *The motor industry in Africa is facing a high influx of counterfeit spare parts. Honda has established an advanced anti-counterfeiting regime in China which include infringement tracking, IP education and assisting government's consumer protection campaigns. What has been your strategy in Africa? What are some of the outcomes?*

For counterfeit goods, we conduct a certain amount of infringement tracking and intellectual property education.

*Research Question 4: What are the important governmental supports for Japanese stakeholders in utilizing the foreign IP protection systems?*

1. *The Japanese government through various institutions work closely with stakeholders such as ARIPO, do you believe there is adequate dissemination of information from these departments on the actual situation and procedures for IP protection and other related developments in Africa?*

Japan Patent Office, and JETRO etc provide adequate information.

2. *Would you say that there is adequate education, training and awareness on African related issues for example IP system and other issues in Japan?*

We think there is very little information on educational and other matters concerning IP in Africa.

[End of document]

Appendix VII: Minutes of the interview to an organization of IP in Japan

Date and time: 3:00 pm – 4:00 pm, Wednesday 30<sup>th</sup> August 2017

The organization is related to Intellectual property systems.

The answers given below are personal views of a person from the organization.

*Basis Questions*

1. *In 2015 Japan Patent Office received 258,839 (local applications) and 59,882 foreign applications and there are similar trends over the years where the number of domestic applications is more than triple that of foreign applications.*

*What are the key drivers for IP protection outside Japan for Japanese companies?*

Japanese companies own IP rights to gain a competitive edge in the foreign market. Also, through the possession of IP rights, they have an advantage over competitors at the time of negotiation.

How does this over focus on the domestic protection affect the utilization of Japanese technologies outside the country as there is already disclosure?

In the past, domestic technology competition was fierce and the companies had to file domestic applications first, and after that, they usually filed foreign applications only for their important inventions. This is the reason for a much smaller number of foreign applications you point out.

This "over-focus on the domestic protection" allowed foreign competitors to easily catch up with Japanese companies because many inventions were published in the official gazette, without being protected outside Japan.

In recent years, Japanese companies have been placing more emphasis on investments and market development in foreign countries. As a result, the number of foreign applications has been increasing.

2. *There has been an increased rise of Asian companies (Korea and China based companies) in the global market and taking over the share that was originally held by Japanese companies e.g. Samsung, LG, Hauwei and taking over market share originally held by Japan companies such as Toshiba and Sony. This has been attributed by some to weak negotiations in licensing agreements and other related IP issues and cultural issues. What is your view and perspective on this decline in international competitiveness of Japanese giants?*

After the Second World War, Japanese companies contributed to the rapid economic growth of this country. They learned technologies from foreign countries, made improvements, and exported more user-friendly and higher-quality products.

After the end of the high economic growth, Japanese companies continued to develop cutting-edge technologies for their new products, and they filed a large number of patent applications, but they did not make enough efforts to enforce their rights and to take other measures against infringing products made in foreign countries.

Therefore, foreign companies could easily catch up with Japanese companies by using similar technologies. Moreover, foreign companies could use tools or machines for making patented products because machine manufacturers exported such machines to overseas while the patents were owned by Japanese companies.

Consequently, the sales of Japanese products decreased significantly.

Another reason is that many Japanese business people don't have good communication skill in English needed for negotiations with foreign companies, and they are generally not good at building personal networks with foreign people. For example, a study program in an English-speaking country usually takes only one or two years and they return to Japan after mastering basic English.

In contrast, in China and South Korea, people usually spend at least 4 years to study abroad. They obtain not only language skills but also specialized or technical knowledge, and moreover, they learn to build a personal network.

Further, there may be a cultural reason, I think. Japanese people or society as a whole don't like to have a dispute or argument. That is why there is a small number of lawsuits, as compared to other countries. Even in business, Japanese people are not good at claiming their rights or debating with other people; they basically want to avoid such situations. Actually, many disputes or conflicts are settled without the involvement of court. In other countries, people think they should claim their rights to discourage infringers, but the Japanese are not accustomed to such arguments.

3. *How would you describe the general interest in IP in Africa by Japanese stakeholders?*

In the first place, there is little information about Africa in general. To be more exact, information about African countries is scarcely provided in Japanese language. Basic data about their legal systems is available at the JPO's website, but Japanese stakeholders aren't well informed about the actual status of IP in Africa, e.g. about their examination guidelines and practices, the possibility of enforcing rights after the grant, etc.

What are the key drivers for their IP seeking protection outside Japan?

Japanese companies get interested in investments and IP protection only when there is a promising market.

Therefore, the first thing to do will be to make Africa more attractive and accessible to Japanese companies, by improving:

the safety of places to live and work, the political stability, and the transparency of administrative procedures.

4. *What has been the scope of research work on IP systems in Africa? Could you share your conclusion of your research on IP system in Africa?*

Thanks to the membership in WTO-TRIPS, the IP systems in African countries seem to be well developed. But Japanese stakeholders cannot get sufficient information about

the examination guidelines and practices of each IP Office, and they are not sure whether it is possible to enforce the rights granted in these countries.

When I saw a photo of the IP Office of an African country, the room and the corridor in the photo were untidy, filled with piles of papers. I doubted whether the application documents were managed properly.

*Research Question 1: What extent are ARIPO and its IP system known to Japanese stakeholders?*

1. *In your perspective and experience what would you say is the level of awareness of ARIPO system by your members and Japanese IP owners in general?*

ARIPO covers the English-speaking countries in Africa.  
They started practical communications with the Japan Patent Office.  
We hope ARIPO and the JPO will develop their close relationships in the future.

If the investment environment is improved in the English-speaking countries, the number of patent applications from outside will increase. In the future, many foreign companies will own IP rights and need to use the IP systems in ARIPO member states.

Therefore, it is necessary for these countries to disclose sufficient information about their IP systems and practices, clarify the procedures, and improve the environment so that foreign companies can enforce their rights after the grant.

2. *What would you say is the demand for protection of IP titles in ARIPO region?*

First, Japanese companies need to protect their trademarks if they intend to sell their products. If trademark protection is not adequate in this region, the companies will hesitate to make an investment.

Patent protection is important, especially in the pharmaceutical field, but in other fields, Japanese companies will take a wait and see attitude, without filing patent applications.

3. *What advice do you provide to members on how to protect IP titles at ARIPO?*

There is little information to provide to our members on IP protection at ARIPO. To make ARIPO known to Japanese stakeholders, the first step will be to publish articles about ARIPO system in some Japanese IP journals or hold seminars in Japan.

At the same time, it's necessary to make trademark rights more accessible by clarifying the examination guidelines and making them available to the public. To attract investments, you also need to ensure that the legal remedy system is reliable in the event of infringement.

*Research Question 2: What are the issues in ARIPO's IP system from the aspect of Japanese stakeholders?*

1. *What are your thoughts on the advantages of the ARIPO system?*



In Japan, many people speak some English but speakers of French are very few. They feel at ease when they operate in an English-speaking country, because they can communicate with the IP Office in English.

ARIPO system is advantageous because it's a central point to many of the African countries.

2. *What would you say are the challenges in the utilization of ARIPO system?*

To provide a lot of information about ARIPO system, I think it's necessary to promote human exchanges with Japan.

Also, you can increase interest in Africa among Japanese people by providing information in Japanese language.

If you disclose information about ARIPO system, about your efforts to improve the system etc., Japanese companies will be able to know both strong points and weak points of the system and to make plans for the future as part of their IP strategies in Africa.

*Have there been concerns aired by some of your Members? If yes what are the issues?*

I don't know very well about it.

3. *ARIPO is a non-unitary system, how best can ARIPO align itself to ensure effectiveness of this system and influence in the Member States?*

I think the EPO's system is a good example. The EPO introduced a unitary system recently. If ARIPO also changes to a unitary system, it will probably be better for Japanese companies.

4. *ARIPO has developed various legal instruments for the protection of IP titles, are there any shortfalls you have identified in the Protocols i.e. Harare, Banjul, Swakopmund and Arusha?*

ARIPO's system is well developed. Now, ARIPO needs to clarify its examination guidelines and practices and make them known internationally.

5. *What would be your proposal for the improvement of the legal instruments and general operations and coordination with Member states?*

Japanese stakeholders want to know how the IP rights are protected in ARIPO member states when an applicant files patent applications and obtains the IP rights through ARIPO. It will be helpful if ARIPO provides information about this.

We also hope, to improve IP protection in ARIPO member states, ARIPO will work with its member states and provide support.

6. *What other roles do you believe ARIPO could play or improve upon to improve the coordination of the whole IP ecosystem instead of just the protection of IP titles?*

ARIPO can promote growth of companies through the use of IP rights and increase awareness of the need to respect IP rights in its member states.

*Research Question 3: What are the issues in utilizing IP for expanding Japanese businesses in Africa?*

1. *There has been an increase in investment and interest in Africa from Japan with the adoption of resolutions such as those based on TICAD and its implementation mechanisms. Japanese exports to Africa have risen from 5.0 billion USD in 2000 to 7.8 billion USD in 2015. The number of Japanese companies operating in Africa rose from 336 in 2005 to 687 in 2015 further FDI stock in Africa has risen 22 fold in 18 years from 0.5 billion in 1996 to 11.4 billion in 2014.*

Since the Japanese market has been shrinking gradually in recent years, many companies are looking for new business opportunities in Africa, Southeast Asia, and South America.

2. *In your view what role is or are IP issues incorporated in these strategies and implementation of activities since they involve private sector and issues such as technology transfer, innovation and science and technology?*

At Japanese companies, there aren't enough people who can manage business activities in foreign countries. Therefore, they are hesitant about investing in a foreign country if IP infringement isn't controlled.

To attract investments, the governments of African countries should increase the transparency of procedures from the application filing to the grant of IP rights, and control IP infringement by taking adequate measures against counterfeit products.

3. *There has been a general focus on the local market by Japan companies resulting in low levels of uptake of foreign international languages and other practices to grow outside of the borders. The Population of Japan is now shrinking and ageing. How does this affect the pressure for Japanese companies to look into outside markets and production sites for their products specifically in Africa?*

As you point out, in Japan, the population is decreasing and aging while the birthrate is low. The purpose of doing business abroad is not only to develop a new market, but also to get workers.

In this regard, Africa is promising as a destination of investment, even if it is far from Japan.

4. *What is the view of your organization on the intellectual property system in Africa in general and its relationship with business activities on the continent?*

Thanks to the membership in WTO-TRIPS, African countries seem to have well-developed systems, but I have an impression that these systems don't always work properly and the practices are not clear.

I hope these countries will increase the transparency of their practices and promote the disclosure of information in the near future.

5. *What has been the experience of your organization members on conducting business in Africa? (i.e. challenges and opportunities and successes)*

We have no experience of conducting business in Africa. Personally, I have an expectation for future development of African countries.

I also hope interaction of people between Japan and African countries will expand.

6. *There is a focus on the US and China as the important trading partners outside Japan and less focus on regions such as Africa, but the competitors of Japan companies from China, Korea and the US have increased their footprint in Africa, what could be the cause for this?*

That's a good point. Due to historical background and geographical distance, Japanese companies have been concentrating investments on the markets of the US, China, and Korea.

The companies were not active in market development in other countries because the Japanese market was large enough for most companies and they had few competent human resources for doing business abroad.

But now, many companies recognize the need to actively enter the markets in Africa, Southeast Asia, and South America.

Therefore, investments from Japan to Africa will increase if there is a larger amount of information about African countries and people get interested in Africa.

*Research Question 4: What are the important governmental supports for Japanese stakeholders in utilizing ARIPO system?*

1. *What efforts could be made to increase the level of IP awareness and business interest in Africa by Japan companies?*

As far as I know, the Japan External Trade Organization (JETRO) takes care of Japanese companies that are already conducting business or considering making an investment in Africa. They can get information and advices from JETRO.

2. *What are the current programmes and efforts towards supporting Japanese companies in entering the African market and learning about IP systems, legal, business practices and culture therein?*

In addition to 1 above, JETRO might provide information by holding seminars on IP in Africa.

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## Appendix VIII: Minutes of the interview to Japan Intellectual Property Association (JIPA)

Date and Time: 3:00 – 4:00 pm, Tuesday 12<sup>th</sup> September

Place: Tokyo Head Office of JIPA, Asahi Seimei Otemachi Bldg.18F 6-1 Ohtemachi 2-chome, Chiyoda-ku Tokyo, Japan

Attendees:

Interviewee:

Mr. Naoto Kuji, Executive, Managing Director, Japan Intellectual Property Association

Ms. Rambidjay Rosemary Mlambo, Researcher

Dr. Yorimasa Suwa, Supervisor

Ms. Haruko Nishikawa, Interpreter

### *Basis Questions*

1. *In 2015 Japan Patent Office received 258,839 (local applications) and 59,882 foreign applications and there are similar trends over the years where the number of domestic applications is more than triple that of foreign applications. What are the key drivers for IP protection outside Japan for Japanese companies? How does this over focus on the domestic protection affect the utilization of Japanese technologies outside the country?*

There are 3 major factors that Japanese companies consider when they are protecting their IP titles outside Japan. These are

I. Whether business is conducted in the market of the target country, the scale of the business is also considered

II. They consider whether target country is a place where IP litigation may take place in the future, the legal systems are different in each country and even if litigation takes place in one country the outcome of that case does not necessarily result in a similar outcome in a different country. So when a company is seeking to protect its IP in multiple countries it targets mainly those countries where there is likelihood that their rights are enforceable and the legal system allows for proper litigation in a timely manner.

III. Whether they own subsidiaries in the target country because one of the important functions of the IP system is royalty earnings from their IP. So unless the company has secured rights i.e. patents in the target country they cannot earn income in the form of royalties from the subsidiary.

In the 1990s the Japanese companies were competing outside the country in the global market. Once the company acquires a patent locally it leads to a global battle amongst the Japanese companies.

2. *There has been an increased rise of Asian companies (Korea and China based companies) in the global market e.g. Samsung, LG, Huawei, and taking over the share that was originally held by Japanese companies Toshiba and Sony. This has been attributed by some to weak negotiations in licensing agreements and other related IP issues and cultural issues. What is your view and perspective on this decline in international competitiveness of these Japanese giants?*

Each company or country has its own lifecycle with a period of growth. The Japanese growth period was between 1960s and 1990s. When the optimal growth is reached it

doesn't grow anymore and this is the current status of the Japanese economy. The Korean and Chinese are experiencing exponential growth since 2010 and are at their peak. The current situation is that they head hunt Japanese experts or "borrow" from Japanese technologies. The economies are in their youth. In my opinion the growth period of Korea has been terminated, they made a too rapid growth and the growth curve was too steep so they have already reached their maximum of their capabilities, china still have more room for growth. Africa looks like it will have more rapid growth from now. Africa has the French speaking and the English speaking nations and I believe the English speaking nation are undergoing more rapid and solid growth.

3. *How would you describe the general interest in IP in Africa by Japanese stakeholders? What are the key drivers for their IP seeking protection in Africa?*

There are certain different steps on acquiring IP depending on Business size. The first entry point for any business is trademarks. If there is a high probability of counterfeiting then the company acquires design rights. After this has been done the company assess whether there is competition from similar companies or technologies and files for patents as these become more important. The first initial entry the trademark is extremely important.

4. *To what extent are JIPA activities engaged in and with Africa?*

Due to what I mentioned above as JIPA we have been interested in knowing about the trademark protection systems in Africa. In our own honest opinion we believe that OAPI is providing better protection of trademarks.

*Research Question 1: What extent are ARIPO and its IP system known to Japanese stakeholders?*

1. *In your perspective and experience what would you say is the level of awareness of ARIPO system by your members and Japanese IP owners in general?*

Pharmaceutical companies has done in-depth studies of the system e.g. Takeda pharmaceuticals. However the electronic and mechanical companies are at a level where they are not very interested in patent protection in Africa. Even though they do not have been interested in patent protection they have interest in trademark protection because they intend to sell their products in African countries, so if they have a good impression of the trademark system will be the foundation of attitudes or impressions on patent and other protection mechanisms. It is key for ARIPO to provide more detailed information on trademarks as this is an area of primary interest.

*Research Question 2: What are the issues in ARIPO's IP system from the aspect of Japanese stakeholders?*

1. *What are your thoughts on the advantages of the ARIPO system?*

*The English speaking nations in Africa present an advantage for Japanese companies as they are viewed as having a more solid foundation. In terms of credibility ARIPO does have more credibility than OAPI. At the rights are approved my individual countries of the*

Member countries. The harmonization is a great challenge for the Japanese companies because it is difficult for the companies to have to research and understand the different systems in the member states and have to manage separately or differently in each country because there is no unification

2. *ARIPO has developed various legal instruments for the protection of IP titles, are there any shortfalls you have identified in the Protocols i.e. Harare, Banjul, Swakopmund and Arusha?*

The most preferred situation for applicants is having uniformity in processes and procedures at the national offices and forms as well. This would be the most ideal situation.

3. *JIPA has been involved in some key international activities such as technology transfer through WIPO green how best can ARIPO coordinate technology transfer activities in the region and what are some of your key lessons from implementation and participation of WIPO green?*

It will not be enough to introduce technology transfer processes and mechanisms like WIPO green merely just by its presence on the ARIPO website. It is necessary to have practical work is done, where assessment of the need for a technology is understood and proper needs assessment studies are carried out. A coordinator for the process would be more desirable so that they can communicate the information more appropriately to WIPO green will lead to more effective technology transfer.

I am also member of IP sustainability energies venture and the members are supporting WIPO green, if we can get more information we can assess whether there are technologies that can be useful and introduced. The venture has companies from EU, US and Japan.

4. *Africa is now one of the largest destination for counterfeit products. The counterfeit products include electronics and related gadgets (the demand for modern cheap technology has increased with mobile and internet penetration) and spare parts as a result of increased imports of used Japanese vehicles and this is now a multi-million dollar industry in African countries. To what extent would you say the Japanese companies are aware of these activities and what measures have been taken to curb such activities through the existing partnerships? What is your opinion on enforcement in the ARIPO region?*

I have experience in some litigation in South Africa, I was involved in 3 lawsuits in South Africa and it turned out to work very well. I found that the litigation system in English speaking countries is better established. We tried to engage in a lawsuit in Nigeria in West Africa and it proved to be very difficult and we gave up. In my book on my experiences in Africa I wrote that it is better to have lawsuit in ARIPO member states if you want to have a lawsuit in Africa.

5. *What role could ARIPO play in the development of enforcement infrastructure in the region and or assisting applicants?*

Grant of high quality rights in the shortest possible period of time would result in enforceability

*Research Question 3: What are the issues in utilizing IP for expanding Japanese businesses in Africa?*

1. *In your view what role is or are IP issues incorporated in strategies such as TICAD and implementation of activities since they involve private sector and issues such as technology transfer, innovation, science and technology?*

IP system is a precondition for any business investment and unless the IP system unless IP system is well established the companies are reluctant to make any investment. IP system includes unfair competition and trade secrets protection

2. *There has been a general focus on the local market by Japan companies resulting in low levels of uptake of foreign international languages and other practices to grow outside of the borders. The Population of Japan is now shrinking and ageing. How does this affect the pressure for Japanese companies to look into outside markets and production sites for their products specifically in Africa?*

Expansion is not the only goal to be achieved in an ageing population. The living environment and conditions are satisfied with what they have, so there is expansion of existing technologies

3. *What is the view of JIPA on the intellectual property system in Africa in general and its relationship with business activities on the continent?*

Globally JIPA has a view that the global IP system should be harmonized. Among IP offices and users from Japan, EU and US have been having meetings for the last 20 years for the uniformity and unification of the IP system. We made a very strong proposal (4 same) that the IP offices in US and Japan that is being implemented and considered by both IP offices. i.e. same format, same format, same examination and same patent.

4. *Language is a big barrier to entering and understanding any market, the spread of international languages in Japan is very low, and to what extent does this affect the growth of Japanese influence and growth outside the country and what steps are being taken to mitigate this weakness?*

The Japanese society is used to using Japanese language all the time and tend to use English less, and the current situation is the use of Artificial Intelligence. But this is causing the society to be more and more unlikely to use English

5. *What has been the experience of JIPA members on conducting business in Africa? (i.e. challenges and opportunities and successes)?*

The pharmaceutical companies are the most interested in doing IP related activities in Africa. WIPO Research is a platform where there is increased activity related to tropical diseases. Yamaha and Honda are doing more business related to African market.

6. *There is a focus on the US and China as the important trading partners outside Japan and less focus on regions such as Africa, but the competitors of Japan companies from China, Korea and the US have increased their footprint in Africa, what could be the cause for this?*

The price of Japanese products is relatively higher than that from other countries but the quality is much better. When the market prefers to purchase products at premium price for the quality then the Japanese companies are more willing to do business in that country.

*Research Question 4: What are the important governmental supports for Japanese stakeholders in utilizing ARIPO system?*

1. *JIPA is involved in human resource development and this is one of its key focus areas. O what extent does training by JIPA include material on ARIPO and other IP systems in Africa?*

JIPA dispatched a team to Africa to learn and obtain more information on the IP systems there and the team returned and held seminars to member companies and we keep trying to obtain such information so that we can provide it to our members

2. *JIPA develops around 50 proposals a year on IP related issues, to what extent have these proposals included opinions and proposals related to Africa?*

The timing for JIPA to provide proposals is at the time of reforms or amendment of the laws. JIPA have not provided any such information in the last 5 years at least, but we are ready to provide such opinions if the need arises.

3. *What efforts could be made to increase the level of IP awareness and business interest in Africa by Japan companies?*

In the last 5 years the JIPA Vice president has delivered speeches 4 times in Africa in 2014 and 2015 including ARIPO. Some JIPA members are trainers and facilitators in WIPO and ARIPO programmes. JIPA also translates some of the news articles from the ARIPO website and posts them but not all the time. The president of Honda meets the heads of ARIPO and OAPI every year.

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